

6. Whenever an inquest ought to be holden on any body lying dead within the jurisdiction of any Coroner under this Act, such Coroner shall have power to hold and shall hold such inquest; and every such inquisition taken before him is valid, whether or not the cause of death arose within his jurisdiction.

Power to hold inquests on bodies within jurisdiction, wherever cause of death occurred.

9. Every Coroner under this Act, upon any inquisition taken before him, whereby any person is indicted for culpable homicide or murder, or for abetting culpable homicide or murder, shall commit to writing the material parts of the evidence given to the jury before him;

Coroner to take evidence in writing;

and may bind by recognizance any person knowing or declaring anything material touching the said offences to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged;

may bind witnesses to appear;

and shall certify and subscribe such inquisition, evidence and recognizances, and deliver the same to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

to certify and deliver inquisition, &c.

10. Any Coroner failing to comply with the provisions of section nine shall be liable to such fine as the said Court, upon summary examination and proof of the failure, thinks fit to impose.

Penalty for failure to comply with section nine.

11. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of six months from such fact or failure, nor after tender of sufficient amends.

Limitation of suits.

#### IV.—Coroners' Juries.

12. On all inquests to be held by the Coroners of Calcutta, Madras and Bombay, no greater number than five Jurors shall be necessary, and every finding of a jury consisting of five Jurors shall be as effectual in law, as if such finding had been the finding of twelve Jurors.

Necessary number of jurors.

13. When any person has been duly summoned to attend as a Juror by any of the said Coroners, and fails or neglects to attend at the time and place specified in such summons, such Coroner may cause him to be openly called in his Court three times to appear and serve as a Juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the person so making default, not exceeding fifty rupees, as to the Coroner seems fit.

Fine on Juror neglecting to attend.

The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person

Certificate as to defaulting juror.

so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

Service of copy of certificate.

Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

Levy of fine.

14. No inquisition found upon or by any inquest of any of the said Coroners, nor any judgment recorded upon or by virtue of any such inquisition, shall be quashed, stayed, or reversed for want of the averment therein, or any matter unnecessary to be proved,

Inquisitions not to be quashed for want of form.

nor for the omission of the words "with force and arms," or of the words "against the peace,"

nor for the omission or insertion of any other words or expressions of mere form or surplusage,

nor for the insertion of the words "upon their oath," instead of the words "upon their oaths,"

nor for omitting to state the time at which the offence was committed, when time is not of the essence of the offence,

nor for stating the time imperfectly,

nor because any person mentioned in any such inquisition is designated by a name of office or other descriptive appellation instead of his proper name,

nor by reason of the non-insertion of the names of the Jurors in the body of any such inquisition, or of any difference in the spelling of the names of any of the Jurors in the body of any such inquisition and the names subscribed thereto,

nor because any Juror has set his mark to any such inquisition instead of subscribing his name thereto, nor because any such mark is unattested, provided that the name of such Juror is set forth,

nor because any Juror has signed his Christian name or other name which is not a family name by means of an initial or partial signature only, and not at full length,

nor because of any erasures or interlineations appearing in any such inquisition, unless the same are proved to have been made therein after the same was signed, nor for or by reason of any such inquisition not being duly sealed or written upon parchment,

nor because the Coroner and Jury did not all view the body at one and the same instant, provided that they all viewed the body at the first sitting of the inquest.

In all or any such cases of technical defect as are hereinbefore mentioned, any Judge of the High Court may, if he thinks fit, order the inquisition to be amended in any of the respects aforesaid, and the same shall forthwith be amended accordingly.

## V.—Miscellaneous.

15. Every person committed by a Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered, in Calcutta, to the Superintendent of the Presidency Jail, and in Madras and Bombay, to the Superintendent of Jails for the town of Madras or Bombay, as the case may be, together with a warrant of commitment directing him to have the body of such person before the Court for trial.

And such Superintendent shall, as soon as practicable, cause the person so delivered to be taken before the High Court at a criminal session of the said Court, together with the warrant of commitment, in order that he may be dealt with according to law.

16. Each of the Coroners under this Act, may, from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand and seal, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under and by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him :

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

## SCHEDULE.

Number and year.	Title.	Extent of repeal.
33 Geo. III., cap. fifty-two...	An Act for continuing in the East India Company, for a further term, the possessions of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the Government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV., cap. seventy-four	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six, and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' juries ...	The whole.
Act No. XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.	The whole.
Act No. XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.	In section twelve the words "or Coroner" and the last sentence.

## STATEMENT OF OBJECTS AND REASONS.

The law relating to the Coroners at the three Presidency Towns is now inconveniently scattered among two Statutes and three Acts, and the object of this Bill is, not to make any substantial change in the law, but merely to consolidate these five enactments.

SIMLA;

The 26th August 1870.

J. F. STEPHEN.

WHITLEY STOKES,

Secy. to the Council of the Govr. Genl.  
for making Laws and Regulations.



The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th September 1870, and was referred to a Select Committee with instructions to make their report thereon in a week :—

No. 21 of 1870.

*A Bill to legalize the levy of certain duties on timber imported into Maulmain.*

Whereas certain duties were in the years 1864 and 1865 levied on foreign timber imported into Maulmain by the River Salween, and whereas doubts have been raised to the legality of the levy of such duties, and it is expedient to preclude such doubts; It is hereby enacted as follows:—

1. All duties levied between the first day of July 1864 and the second day of August 1865 (both inclusive) on foreign timber imported into Maulmain by the River Salween, shall be deemed to have been levied in accordance with law.

2. All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

STATEMENT OF OBJECTS AND REASONS.

Since 1854, duties have been levied at Kadoe on the timber brought to Maulmain down the Salween River, which flows through Tenasserim. The authority for levying these duties was supposed to be given by Act XXX of 1854, section seven, which provides that teak timber floated down any river in the Martaban or Tenasserim provinces shall be charged with the same duty as that chargeable for the time being, under section six, on teak timber passing a river frontier Custom House, *i. e.*, according to section six, on the Rivers Irawádi and Sitang.

In 1863, however, the duties leviable on the Irawádi and the Sitang were abolished by a notification issued in the Foreign Department under Act IV of 1863, which gave effect to a treaty between Lord Elgin and the King of Burma. Thereupon the levy of duties on the Salween became unauthorised; but this change in the law, which of course was unintentional, remained till lately unnoticed either by the public or the local authorities.

The object of the present Bill is simply to legalize the levy of the duties on the Salween from the 1st July 1864 to the 2nd August 1865. For the time before the former date, the Limitation Act will provide. The time between the 2nd August 1865 and the present day is covered by Act VII of 1869.

SIMLA; } J. F. STEPHEN.  
The 6th September 1870. }

WHITLEY STOKES,  
Secy. to the Council of the Govr. Genl.  
for making Laws and Regulations.



# The Gazette of India.

Published by Authority.

SIMLA, SATURDAY, OCTOBER 1, 1870.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making  
Laws and Regulations, or published under Rule 19.

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SIMLA; } J. F. STEPHEN.  
The 6th September 1870. }

WHITLEY STOKES,  
Secy. to the Council of the Govr. Genl.  
for making Laws and Regulations.





# The Gazette of India.

Published by Authority.

SIMLA, SATURDAY, OCTOBER 8, 1870.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making  
Laws and Regulations, or published under Rule 19.

The following Bill was introduced into the Council  
of the Governor General of India for the  
purpose of making Laws and Regulations on  
the 3rd October 1870.

No. 22 of 1870.

*A Bill to consolidate the laws relating to Prisoners  
confined by order of a Court.*

For the purpose of consolidating the laws relat-  
ing to prisoners confined by  
order of a Court; It is hereby  
enacted as follows :—

### PART I.—PRELIMINARY.

- |                 |  |
|-----------------|--|
| Short title.    | 1. This Act may be called<br>"The Prisoners' Act, 1870."                 |
| Local extent.   | It extends to the whole of<br>British India.                             |
| Commencement.   | And it shall come into force<br>on the passing thereof.                  |
| Repeal of Acts. | 2. The Acts mentioned in<br>the Schedule hereto annexed<br>are repealed. |

### PART II.—PRISONERS IN THE PRESIDENCY TOWNS.

- |  |   |
|--|---|
| 3. All writs or warrants for the arrest or ap-<br>prehension of any person, issued<br>or awarded by the High Court<br>in the exercise of its ordinary, | Warrants and writs<br>to be directed to<br>Police Officers. |
|--|---|

extraordinary, or other criminal jurisdiction, shall  
be directed to and executed by any officer of Police  
within the local limits of such jurisdiction.

4. The Local Government may appoint an officer  
who shall be called in Calcutta  
the Superintendent of the Pre-  
sidency Prisons, and in Madras  
and Bombay the Superinten-  
dent of Prisons for the town of Madras or Bombay,  
as the case may be, and who shall have authority  
to receive and keep prisoners committed to his  
custody under the provisions of this Part.

- |  |  |
|--|--|
| Superintendents to<br>detain persons com-<br>mitted. | 5. The said prisons shall be<br>the prisons of Calcutta, Madras,<br>and Bombay respectively, |
|--|--|

and the Superintendents so appointed are hereby  
respectively authorized and required to keep and  
detain all persons duly committed to their custody  
pursuant to the provisions of this Act, or other-  
wise, by any Court, Judge, Justice of the Peace,  
Magistrate of Police, Coroner, or other public  
officer lawfully exercising civil or criminal juris-  
diction according to the exigency of any writ,  
warrant or order by which such person has been  
committed, or until such person is discharged by due  
course of law.

- |  |  |
|--|--|
| 6. The said Superintendent shall forthwith<br>after the execution of every such<br>writ, order, or warrant, except<br>warrants of commitment for<br>trial, or after the discharge of<br>the person committed thereby, return such writ,<br>order, or warrant to the Court or other officer by<br>which or by whom the same has been issued | Superintendents to<br>return writs, &c., after<br>execution or discharge<br>with certificates. |
|--|--|

or made, together with a certificate endorsed thereon and signed by such Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

11. Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the said Superintendent, together with a warrant of the Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court,

together with the warrant of commitment, in order that he may be dealt with according to law.

13. Pending any such enquiry as is mentioned in section eight of Act No. XXIII of 1861 (*to amend Act XXXIII of 1861, VIII of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and such Superintendent is hereby authorized and required to detain such defendant in safe custody until he is redelivered to the Officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

14. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*),

or in pursuance of a warrant issued under section three of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction; and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the confinement of State prisoners*), Regulation II of 1819 of the Madras Code (*for the confinement of State prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State prisoners, and for the attachment of the lands of Chieftains and others, for reasons of State*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better custody of State prisoners*), and Act No. III of 1858 (*to amend the law relating to the arrest and detention of State prisoners*).



16. Section twenty-five of Act No. XLVIII of 1860, shall be construed in Bombay as if the words "Superintendent of prisons for the town of Bombay," were substituted for the words "Keeper or Governor of the Jail or House of Correction."

PART III.—PRISONERS IN THE MOPUSSIL.

17. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence passed by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General of India in Council, or of any Local Government.

18. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

19. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Persons convicted in Native States.

20. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences,—

thuggee, dacoity, belonging to any gang of thugs or dacoits,

murder, culpable homicide,

administering poison or any other thing with intent to cause hurt or commit, or to facilitate the commission of an offence,

rape, voluntarily causing grievous hurt,

child-stealing, selling females, robbery, house-breaking, cattle theft,

malicious and wilful burning of houses, forgery, counterfeiting coin, or uttering counterfeit coin,

criminal breach of trust, criminal misappropriation of property,

attempt to commit any of the above offences,

abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive (*samādhi*), or of any of the other offences above specified,

and for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided always that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, is one of the presiding Judges.

21. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

PART IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

22. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General of India in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with:

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge, or part discharge, of the term of the sentence.

23. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

24. The Governor General in Council may grant to any convict hereafter to be sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such

conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

25. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of license to be allowed to go at large.

26. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

If license revoked, the convict may be apprehended.

27. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by a Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

Execution of warrant.

28. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the district in which the convict is apprehended.

Apprehended convict to be brought up for recommitment.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the recommitment of the convict to the prison from which he was released by virtue of the said license.

29. Such convict shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the period mentioned in the original sentence.

Recommitment.

30. If a license be granted under section twenty-five upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

Penalty for breach of condition of the license.

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

#### PART V.—REMOVAL OF CONVICTS.

31. When any person is, or has been, sentenced to imprisonment by a Court established by Royal Charter, the Local Government may order his removal during the period prescribed for his imprisonment, from the jail in which he is confined to any other jail within the territories subject to the same Local Government.

Power to remove prisoners sentenced by High Court from one jail to another in the territories under Local Government.

32. Whenever it appears to the Local Government that any person, imprisoned by the sentence of a Court established by Royal Charter, is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such prisoner is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then, until he is discharged, according to law.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand him to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

Remand on recovery.

Discharge.

The provisions of section nine of Act XXXVI of 1858 (relating to Lunatic Asylums) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

Act XXXVI of 1858, section 9, applied to prisoners in lunatic asylum.

33. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

Governor General in Council may order removal of prisoners from one prison to another.

#### PART VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

34. As soon as any offender is delivered to the person appointed by the Governor General in Council in this behalf at the place to which such offender is transported, the property in his service shall, during the term of transportation, vest in the person so appointed.

Right to service of convicts.



35. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered, and in whom the property in their service shall vest as aforesaid.

36. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;

their confinement, treatment, and discipline;

their punishment for misbehaviour, disorderly conduct, neglect, or disobedience.

#### PART VII.—DISCHARGE OF CONVICTS.

37. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

### SCHEDULE.

(See Section 2.)

Number and Year.	Title.	Extent of Repeal.
Act VII of 1837 ...	Charter Courts' power to discharge convicts recommended for pardon.	The whole.
Act XVI of 1840 ...	An Act concerning the management of convicts transported to places within the territories of the East India Company.	The whole.
Act XXIV of 1855 ...	An Act to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Sections five, six, seven, nine, ten, eleven, twelve.
Act XVII of 1860 ...	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
Act VIII of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners.	The whole.
Act VIII of 1865 ...	An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.	The whole.
Act II of 1867 ...	An Act to make further provision for the removal of prisoners.	The whole.
Act XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.	The whole.
Act XXVI of 1869 ...	An Act to correct a clerical error in Act VIII of 1863.	The whole.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate the nine Acts which contain the law relating to prisoners confined by the order of a Court. The Bill preserves intact the substance of the existing law; but some improvements have been made in its arrangement and wording.

SIMLA; } F. R. COCKERELL.  
The 20th September 1870. }

WHITLEY STOKES,  
Secretary to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870.

No. 23 OF 1870.

*A Bill to consolidate the law relating to Trespasses by Cattle.*

Whereas it is expedient to consolidate the law relating to trespasses by cattle; It is hereby enacted as follows:—

Preamble.

*Preliminary.*

Short title. 1. This Act may be called 'The Cattle-trespass Act, 1870.'

It extends to the whole of British India, except such districts or tracts of country as the Local Government, with the sanction of the Governor General in Council, may exclude from its operation.

Local extent.

Commencement. And it shall come into force on the passing thereof.

2. The Acts mentioned in the Schedule hereto annexed shall be repealed to the extent specified in the third column of the said Schedule.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

*Impounding Cattle.*

3. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land,

Cattle doing damage to land may be seized and impounded.

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and take them without unnecessary delay to the pound established for the village in which the land is situate.

All Officers of Police shall, when required, give their aid to persons making such seizures.

Police to aid seizures.

4. Pounds shall be established at the district police stations, and at such other places as the Magistrate of the District, under the orders of the Local Government, may determine.

Where pound shall be established.

The village by which every pound is to be used shall be determined and notified by the Magistrate of the District.

5. The pounds shall be under the controul of the Magistrate of the District, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the Local Government from time to time directs:

Provided that, in the Presidency of Fort St. George, the village Inspectors, and, in the Presidency of Bombay, the heads of villages and police pátis, shall be *ex-officio* the keepers of village pounds.

6. When cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner, if known, and shall give the seizer a copy of the entry.

Seizures to be registered.

The pound-keeper shall take charge of and feed the cattle until disposed of as hereinafter directed.

Pound-keeper to take charge of and feed cattle.

*Fines.*

7. For every head of cattle impounded as aforesaid, a fine shall be levied according to the following scale:

	Annas.
Camel or buffalo	... eight.
Horse or pony, bull, bullock, or cow	... four.
Calf or ass	... two.
Sheep or goat	... one.

No cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

*Delivery or Sale of Cattle.*

8. If the owner appear and claim the cattle, they shall be delivered to him on payment of the prescribed fine, together with the expenses of feeding the cattle at such rates as may from time to time be fixed by the Magistrate of the District.

Procedure if owner appear and claim the cattle.

The owner, on taking back his cattle, shall sign a receipt for them in the register kept by the pound-keeper.

A list of the fines and of the rates of charge for feeding cattle shall be stuck up in a conspicuous place on or near to every pound.

9. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to such officer of Police as the Local Government appoints in this behalf.

Procedure if cattle be not claimed within a specified time.

Local Government appoints in this behalf.



Such officer shall thereupon stick up in a conspicuous part of the Police Office a notice stating—

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village, and at the marketplace nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said Officer of Police, or an officer of his establishment deputed for the purpose.

**10. If the owner appear and refuse or omit**

Procedure if owner appear and refuse or omit to pay the fines and expenses. to pay the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by the said Officer of Police.

The remaining cattle, and the balance of the purchase-money, if any, shall be delivered to the owner, together with an account showing—

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the charge for fines and expenses,
- (d) the number of cattle sold,
- (e) the proceeds of sale,
- (f) the manner in which those proceeds have been disposed of.

The owner shall grant a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account:

Provido. Provided that, if a complaint against the seizure has been preferred under the provisions of section fourteen, no sale shall be made until the case has been decided, nor otherwise than according to the order passed in such case.

**11. No Police Officer or pound-keeper shall, directly or indirectly, purchase any cattle at a sale under this Act.**

Police Officers and pound-keepers not to purchase cattle at a sale under this Act.

**12. When cattle are sold under this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.**

Disposal of sale-proceeds, fines, and expenses.

The Officer of Police by whom the sale was made shall send to the Magistrate of the District the fines so deducted, as well as all fines received by the pound-keepers under section eight.

The expenses of feeding so deducted shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under section eight.

The surplus proceeds of the sale of unclaimed cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred

and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

**13. Out of the sums received on account of Application of fines and unclaimed proceeds of sales, fines and the unclaimed proceeds of the sale of unclaimed cattle shall be paid—**

(a) the salaries allowed to pound-keepers under the orders of the Local Government,

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and other works of a like nature.

*Complaints of Illegal Seizures.*

**14. Any person whose cattle have been seized and detained as doing damage to land or any crop or produce thereon may prefer a complaint at any time within ten days from the date of the seizure to any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.**

Owner may prefer complaint to Magistrate within ten days from date of seizure of his cattle.

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon unstamped paper; and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances.

If the Magistrate on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make a summary enquiry into the case.

If the seizure be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure and detention reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure, together with all expenses incurred by the complainant in procuring the release of the cattle; and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure.

**Munsifs and other judicial officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the Local Government with the power of receiving and trying complaints under this section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate of the District.**

All compensation awarded under this section shall be recoverable as if it were a fine imposed by the Magistrate awarding it.

*Cattle damaging Roads, Canals, Embankments.*

15. Persons in charge of public roads, canals, embankments, and the like, may seize, or cause to be seized, any cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall apply to such seizures.

*Stray Cattle.*

16. Village and other Police Officers shall take to the pounds established under section four all cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of cattle seized as trespassing and doing damage, shall apply to all cattle so taken.

*Penalties.*

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

or forcibly rescues the same after seizure either from a pound, or from the seizer when conveying or about to convey them to a pound,

shall, on conviction before a Magistrate, be punishable with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

18. When any person commits mischief by causing cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorised to seize cattle under section three.

Any fine so adjudged may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

19. Any owner or keeper of pigs, who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

All fines recovered under this and the last preceding section may be appropriated in whole or in part as compensation for loss proved to the satisfaction of the Magistrate.

*Suits for Compensation.*

20. Nothing herein contained prohibits any person, whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court:

Provided that any compensation paid to him under this Act by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as compensation in such suit.

## SCHEDULE.

Number and Year.	Title of Act.	Extent of Repeal.
III of 1857	An Act relating to trespasses by cattle.	So much as has not been repealed.
V of 1860	An Act to amend Act III of 1857 (relating to trespasses by cattle).	The whole.
XXII of 1861	An Act to amend Act III of 1857 (relating to trespasses by cattle).	So much as has not been repealed.

## STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to consolidate the law relating to cattle-trespass, which is now scattered through three Acts,—III of 1857, V of 1860, and XXII of 1861. The opportunity has been taken to improve the arrangement and the wording of the law; to provide that damages awarded for illegal seizures may be recovered as if they were fines; and (with reference to the case of *Reg. v. Lingad bin Giubad*, 4 Bom. High Court Rep. C. C. 14) to declare expressly that a person who, through neglect, permits a public road to be damaged by allowing his pigs to trespass thereon, is liable to be fined. The cases of *Reg. v. Mir Saheb Cassamia*, 1 Bom. High Court Rep. 100; *Reg. v. Mathur Purshotam*, 4 ib. C. C. 13; and *Reg. v. Gangá Kom Mhasu*, 5 ib. C. C. 13, have also been carefully considered.

SIMLA; } F. R. COCKERELL.  
The 20th September 1870.

WHITLEY STOKES,  
Secretary to the Govt. of India.

The following preliminary Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870:—

No. 20 of 1870.

## THE CORONERS' BILL, 1870.

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*A Bill to consolidate the laws relating to Coroners.*

Whereas it is expedient to consolidate the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

*I.—Preliminary.*

Short title. 1. This Act may be called "The Coroners' Act, 1870."

Local extent. It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay.

Commencement. And it shall come into force on the passing thereof.

Repeal of enactments. 2. The enactments mentioned in the Schedule hereto annexed are repealed.

*II.—Appointment of Coroners.*

3. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

4. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

*III.—Duties and Powers of Coroners.*

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed, the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

12. On receiving notice of any death mentioned in section eight the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen persons qualified and liable to serve as jurors under Act No. XIII of 1865 to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a full jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, and the Coroner shall enquire of such circumstances and the cause of the death, and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

18. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest, and every such witness shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read over such parts to the witness and then procure his signature thereto;

any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code;

every such deposition shall be subscribed by the Coroner.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded in.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered, the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

- (1) where, when, and before whom the inquisition is holden,
- (2) who the deceased is,



- (3) where his body lies,  
 (4) the names of the jurors and that they present the inquisition upon oath,  
 (5) where, when, and by what means the deceased came by his death; and  
 (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition may be in the form set forth in the second Schedule to this Act, with such variation as the circumstances of each case require.

**25.** When the verdict is that the death has been caused by culpable homicide amounting to murder, or to culpable homicide not amounting to murder, or by killing by a rash or negligent act, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or killing to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and deliver the same, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison, or if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

**26.** No inquisition found upon or by any inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

**27.** It shall no longer be the duty of any Coroner to enquire of treasure trove or wrecks, or to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

#### IV.—Coroners' Juries.

**28.** Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

The Coroner shall make out, and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

**29.** Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

**30.** Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

**31.** When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

#### V.—Rights and Liabilities of Coroners.

**32.** Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

**33.** All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

**34.** Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

**35.** No Coroner or Deputy Coroner shall be liable to serve as a juror.

**36.** Coroners and Deputy Coroners are privileged from arrest while engaged in the discharge of their official duty.

37. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

Penalty for failure to comply with Act.

38. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of six months from such fact or failure, nor after tender of sufficient amends.

Limitation of suits.

#### FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
33 Geo. III, cap. fifty-two...	An Act for continuing in the East India Company, for a further term, the possessions of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' juries ...	The whole.
Act No. XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

#### SECOND SCHEDULE.

##### *Form of Inquisition.*

An inquisition taken at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_, before E F, Coroner of \_\_\_\_\_ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [or by a majority of \_\_\_\_\_] that the death of the said A B was caused, on or about the \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_, by [here state the cause of death as in the following examples—

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [or accidental] homicide.  
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or killing by a rash or negligent act.]
2. *Cases of accident*—falling out of a boat into the river Hughli, whereby he was drowned.  
— a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.  
— arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.  
— apoplexy.  
— sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of \_\_\_\_\_;  
G H, I J, K L, M N, O P (jurors).



## REPORT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to which the Bill to consolidate the laws relating to Coroners has been referred, have the honour to present this preliminary report.

The Bill, as introduced, was intended merely to consolidate the existing law contained in two Statutes and three Acts, and it provided, in the words of 33 Geo. III., cap. 52, sec. 157, that the Coroners should exercise the like jurisdictions as by law might be exercised by Coroners elected for counties in England. We have struck out this provision, which would have necessitated constant reference to English statutes and text-books, and we have in lieu thereof codified such part of the English law of Coroners as seemed adapted to the Presidency towns.

The amended Bill accordingly declares the Coroner's jurisdiction to enquire into deaths by accident, homicide or suicide, sudden deaths by means unknown, and deaths of prisoners in prison. It enables him to order a body to be disinterred. It provides for summoning juries, swearing the jurors, viewing the body, summoning witnesses, and *post-mortem* examinations.

It declares that the evidence shall be taken on oath, that witnesses unacquainted with English shall be examined through an interpreter, that questions suggested by the jury shall be put, and that the Coroner shall take down the material parts of the evidence. Power is given to adjourn the inquest. When the witnesses have been examined, the Coroner will sum up, and the jury will consider of their verdict. When the verdict is delivered, the Coroner will draw up an inquisition setting forth the matters specified in section 24, and in the form given in the second Schedule.

When the verdict amounts to murder, culpable homicide, or killing by a rash or negligent act (the last mentioned offence is about to be added to the Penal Code), the Coroner will bind by recognizance any person acquainted with the facts to appear at the next Sessions, and prosecute or give evidence. The Coroner will also certify the recognizances and deliver them with the inquisition and evidence to the Court in which the trial is to be. He may also issue his warrant for the apprehension of the accused.

The amended Bill (section 27) expressly abolishes the Coroner's jurisdiction as to treasure trove and wrecks, and declares that he shall not be liable to execute process.

The Coroner of Calcutta will, under the amended Bill, be appointed by the Lieutenant-Governor of Bengal, and not by the Governor General in Council.

As to Coroners' juries, we have provided (section 31) that when an inquest is held on the body of a prisoner, no officer of the prison and no prisoner confined therein shall be a juror. There is a similar provision in the Schedule to the English Prisons' Act (28 & 29 Vic. c. 126), clause 48.

As to a Coroner's rights, we have added three clauses (33, 35, 36), one providing for repaying his disbursements for fees to medical witnesses, hire of

rooms for the jury, and the like; another exempting him from serving on juries, and a third privileging him from arrest while engaged in the discharge of his official duty.

We have omitted the clause corresponding with Act XII of 1867, section 12, as this will more fitly be placed in the Prisoners' Bill now before the Council.

We have omitted, as unnecessary, the elaborate specification of the informalities in case of which the inquisition may be amended by a Judge of the High Court. For variances between the statements in the inquisition and the evidence, Act XVIII of 1862 (sections 1 and 57) appears to provide sufficiently.

We recommend that the Bill thus amended should, before being passed, be published with this report in the *Gazette of India*, that it be sent to the Governments of Madras, Bombay and Bengal, and that the opinions of those Governments, of the High Courts at the Presidency towns of the Advocates General and of the Coroners be obtained on its provisions.

J. F. STEPHEN.

F. R. COCKERELL.

SIMLA;

The 17th September 1870.

WHITLEY STOKES,

Secretary to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 15th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

No. 24 OF 1870.

# THE INDIAN REGISTRATION BILL, 1870.

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*A Bill for the Registration of Assurances.*

Whereas it is expedient to consolidate and amend the laws relating to the registration of assurances and other instruments; It is hereby enacted as follows:—

## PART I.

*Preliminary.*

## Short title.

1. This Act may be called "The Indian Registration Act, 1870."

It extends to the whole of British India except the territories administered by the Chief Commissioner of Oudh;

## Local extent.

And it shall come into force on the first day of January 1871.

## Commencement.

2. In this Act, unless there be something repugnant in the subject or context,

"Assurance" includes any instrument not testamentary purporting to deal with any interest in, or charge upon, immoveable property:

"Lease" includes a counterpart, a kabūliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a pattā or muchalkā, as respectively defined in section three of Act No. VIII of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency:

"Bond" denotes any instrument by which one person (the obligor) binds himself absolutely or conditionally to pay money to another person (the obligee):

"Bill of exchange." "Bill of Exchange" includes a hundī:

"Signature." "Signed." "Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable Property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass:

"Moveable Property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Representative" includes the guardian of an infant and the Committee or other legal curator of a lunatic or idiot:

"Addition" means the place of residence, and the profession, trade, rank, title or caste (if any) of a person described, and, in the case of a Native, his father's name:

"District Court" includes the High Court in its ordinary original civil jurisdiction: "District Court." "Civil Court." does not include a Court for the relief of insolvent debtors:

"General Registry Office." "General Registry Office" includes a Branch General Registry Office:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

3. Act No. XXII of 1864, sections ten and forty-five, Act No. XX of 1866, and Act No. XXVII of 1868 are hereby repealed.

All appointments, rules and orders made, and all offices established, under any of the said Acts shall be deemed to have been made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of January 1871, to any enactment hereby repealed, shall be read as if made to this Act.

## PART II.

*Of the Registration Establishment.*

4. The Local Government shall establish within the territories under such Government, at such place as it thinks fit, an office to be called the General Registry Office, and shall appoint an officer to the charge of such office, who shall be the Registrar General of the territories for which he is appointed.

The Local Government may also, with the previous sanction of the Governor General of India in Council, establish a Branch General Registry Office, and appoint a Branch Registrar General; and every act done by or before any Branch Registrar General so appointed, shall have the same effect as if done by or before a Registrar General:



provided that such branch Registrar General shall not exercise the power to frame rules hereinafter conferred on the Registrar General.

Any Registrar General or branch Registrar General may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Districts and Sub-Districts shall form Districts and Sub-Districts, and shall prescribe and from time to time may alter the limits of such Districts and Sub-Districts.

A Sub-District may be conterminous with a District, or may be situate partly in one District and partly in another.

The Districts and Sub-Districts formed under this section, together with the limits thereof and every alteration of such limits, shall be notified by the Local Government in the official *Gazette* immediately after every such formation or alteration.

Every such alteration shall take effect on such day after the date of the notification as shall be mentioned therein.

6. The Local Government shall establish in every District an office to be styled the Registry Office, and in every Sub-District an office to be styled the Sub-Registry Office.

7. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

8. The Local Government may declare any Military Cantonment to be a Sub-District for the purposes of this Act.

The Cantonment Magistrate of any Cantonment so declared to be a Sub-District shall be the Sub-Registrar thereof.

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District for the purposes of this Act, he shall also declare what authorities shall be deemed to be Registrar of the District and Registrar General, respectively, with reference to such Cantonment and the Sub-Registrar thereof.

9. During the absence on duty of the Registrar General, or branch Registrar General, from the place where the General Registry Office is established, he may appoint the Registrar of such place, or, with the previous sanction of the Local Government, such other person as he thinks fit, to perform the duties of the Registrar General, except those mentioned in sections eighty and eighty-three.

A Registrar so appointed shall perform such duties in addition to his own duties as Registrar.

During such absence, the Registrar or other person so appointed as aforesaid, shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may

use the seal of the Registrar General or Branch Registrar General, as the case may be.

10. In case of the absence from his District, or of a vacancy occurring in the office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General appoints in this behalf, or, in default of such appointment, the Judge of the District Court, or, when there are more District Courts than one, the Judge of such of the said Courts as the Local Government appoints, shall, during such absence or vacancy, be the Registrar.

In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the office of any such Registrar, the Registrar General may appoint any person whom he thinks proper to conduct the duties of such office.

11. In case of the absence of any Registrar from his office on duty in his District, he may appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections seventy-nine and eighty-three.

12. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the office of any Sub-Registrar, any person whom the Registrar of the District appoints in this behalf shall, during such absence or vacancy, be Sub-Registrar.

13. All appointments made under section nine, ten, eleven or twelve, shall be reported to the Local Government by the Registrar General or branch Registrar General, as the case may be.

Such report shall be either special or general, as the Local Government directs; and the Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. The Local Government may, with the previous sanction of the Governor General of India in Council, assign such salaries as such Government from time to time deems proper, to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees, and partly by salaries.

The Local Government may also, with the like sanction, allow such establishments for the several Registration Offices as are necessary for the purposes of this Act.

15. The Registrar General, branch Registrar General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of

the Registrar General (or of the branch Registrar General, or of the Registrar, or of the Sub-Registrar) of

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Registrar General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box.

### PART III.

#### *Of Registrable Documents.*

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, the said Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or shall come into force (that is to say),—

(1) Instruments of gift of immoveable property:

(2) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest, or charge, whether vested or contingent, of the value of one hundred rupees and upwards, to, in or on immoveable property:

(3) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(4) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

The former part of this section does not apply to any composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any debenture issued by any such Company:

And, so far only as regards the territories respectively under the government of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Local Government may, by order published in the official *Gazette*, exempt from the operation of the former part of this section any leases of immoveable property, executed in any particular District, or part of a District, the terms granted by which do not exceed two years and the annual rents reserved by which do not exceed fifty rupees.

(5) Authorities to adopt a son executed after this Act comes into force shall also be registered.

18. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest or charge, whether vested or contingent, of a value less than one hundred rupees to, in or on immoveable property:

(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(3) Leases of immoveable property for any term not exceeding one year, and the pattas and muchalkas referred to in section two:

(4) Awards relating to immoveable property:

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, interest or charge to, in or on moveable property:

(6) Wills not purporting to confer an authority to adopt a son:

(7) Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

20. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration; and the officer registering such document, at the time of registering the same, shall make a note in the register of such interlineation, blank, erasure or alteration.

21. (a.) No document not testamentary relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b.) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by



their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c.) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Sub-Districts, by such number of true copies of the map or plan as are equal to the number of such Sub-Districts, and, in case the property is also situate in several Districts, by such further number of true copies of the map or plan as is equal to the number of such Districts.

22. Failure to comply with the provisions contained in clause (b) of section twenty-one shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.

##### *Of the Time of Presentation.*

23. Subject to the provision contained in section twenty-five, no document of the kinds mentioned in section seventeen, clauses 1, 2, 3 and 4, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

24. Subject to the provision contained in section twenty-five, no document of any of the kinds mentioned in section eighteen (other than a will), shall be accepted for registration, unless presented for that purpose to the proper officer within two months from the date of its execution:

Provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

*Explanation.*—The date of execution of a document means the day on which it purports to have been executed.

25. If owing to urgent necessity or unavoidable accident, any document is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Whenever the last day of any period hereinbefore provided for the presentation of any document falls on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

27. A will or an authority to adopt a son may at any time be presented for registration or deposited in manner hereinafter provided.

28. Nothing in this Act shall alter the time within which any certificate or other document must be registered under the provisions of any Act of the Parliament of the United Kingdom of Great Britain and Ireland.

#### PART V.

##### *Of the Place of Registration.*

29. Save as in this Part otherwise provided, every document mentioned in section seventeen, clauses 1, 2, 3 and 4, and section eighteen, clauses 1, 2, 3 and 4, shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

30. Every document other than a document referred to in section twenty-nine, may be presented for registration in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

31. The Registrar General may in his discretion receive and register any document referred to in section twenty-nine, without regard to the situation in any part of British India of the property to which the document relates.

32. Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

The Registrar of a District shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

33. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public office of the officer whose duty it shall be to register the same; but any such officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring

to deposit a will or authority to adopt a son, and register or accept for registration or deposit such document, will or authority.

Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

#### PART VI.

##### *Of the Presentation of Instruments for Registration.*

**34.** Subject to the provisions of section thirty-three, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office,

by some person executing or claiming under the same,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

**35.** For the purposes of section thirty-four, the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power of attorney resides in any part of British India other than Oude, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides :

(b) if the principal at the time aforesaid resides in Oude, a power of attorney executed before and authenticated by the Deputy Commissioner within the local limits of whose jurisdiction the principal resides :

(c) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or court hereinbefore mentioned in that behalf :

Provided that the following persons shall not be required to attend at the office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing any such power of attorney as is mentioned in clauses (a) and (b) of this section :—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

persons who are in jail under civil or criminal process ; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that

the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

**36.** Subject to the provisions contained in this section and in sections seventy-six, eighty, eighty-four and eighty-nine, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution ;

or, if the person executing the document is dead, and his representative, assign or agent does not appear before the registering officer, but such officer is nevertheless satisfied of the fact of execution,

the registering officer shall register the document as directed in section sixty-eight.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under section thirty-seven, present in his office.

If all or any of the persons by whom the document purports to be executed deny its execution, or if any such person appears to be a minor, an idiot, or a lunatic, the registering officer shall refuse to register the document.

#### PART VII.

##### *Of the enforcement of attendance of executants and witnesses.*

**37.** If any person presenting any document for registration desires the attendance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such revenue or civil court as the Local Government directs in this behalf to issue and serve a summons requiring him to attend at the registry office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named therein.



38. The Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose attendance is so required.

Revenue officer to issue and cause service of summons.

39. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to attend at the registry office,

Persons exempt from attendance at registry office.

a person in jail under civil or criminal process, and persons exempt by law from personal appearance in court, and who would but for the provision next hereinafter contained be required to attend in person at the registry office, shall not be required so to attend.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

40. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before civil courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission, issued, and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses in this Act.

#### PART VIII.

##### *Of registering memoranda of decrees and orders affecting immoveable property.*

41. When any civil or revenue court by a decree or order declares any document relating to immoveable property, which has been registered under this Act or any Act hereby repealed, to be invalid,

Memorandum of decree affecting registered document relating to immoveable property.

or when any civil or revenue court passes a decree or order affecting any such document, and such last-mentioned decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge of the value of one hundred rupees and upwards under such document to, in or on the immoveable property to which it relates,

the Court, on the application of the party in whose favour the decree or order is made, shall cause a memorandum thereof to be prepared, and the Judge or presiding officer shall sign such memorandum and deliver it to the said party,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar within whose District the document was originally registered.

Every such memorandum shall be in the form set forth in the first part of the first schedule hereto annexed.

42. When any civil or revenue court by a decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge, of the value of one hundred

Memorandum of decree affecting immoveable property.

rupees or upwards, of any person to, in or on any immoveable property situate in any part of British India except Oudh,

the presiding officer of the Court, on the application of the party in whose favour the decree or order is made, shall prepare and sign and deliver to him a memorandum thereof,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar, or to every Registrar, within whose District the whole or any part of such immoveable property is situate.

Every such memorandum shall, so far as may be practicable, describe the property in manner required by section twenty-one, and shall be in the form set forth in the second part of the first Schedule hereto annexed.

43. When any decree or order mentioned in section forty-one or section forty-two is made in favour of more parties than one, the said application may be made by any one of such parties, and the Court shall deliver the memorandum to him,

Decrees in favour of several parties.

No decree or order mentioned in section forty-one or section forty-two shall be of any force, unless and until a memorandum thereof has been registered in manner provided by this Act.

Decrees mentioned in section 41 or section 42, not to be of any force until memoranda registered.

#### PART IX.

##### *Of the Presentation and Deposit of Wills and Authorities to adopt.*

44. The testator or any person claiming as executor or otherwise under a will, may present to any Sub-Registrar for registration such will,

Persons entitled to present for registration wills and authorities to adopt.

and the donor or donee of any authority to adopt, or the adoptive son, may present to any Sub-Registrar for registration such authority.

Any person entitled to present for registration any such will or authority may, either personally or by a duly authorized agent, present to a Sub-Registrar such will or authority open, and any testator or donor of such authority may either personally or by duly authorized agent deposit with any Sub-Registrar the will or authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

Presentation or deposit of wills and authorities to adopt.

45. If the depositor of any such sealed cover wishes to withdraw the same, he may apply to the Registrar to whom such cover shall have been sent under section seventy-four that the cover be delivered to him; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 44.

46. If on the death of the depositor of a sealed cover under section forty-four, application be made to the Registrar to whom such cover shall have been so sent to open the same, the

Proceedings on death of depositor.

Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy at the applicant's expense the contents thereof in his Book No. 4.

When such copy has been made, the Registrar shall re-deposit the original will or authority.

## PART X.

### *Of the effects of Registration and Non-Registration.*

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All documents, not testamentary, duly registered under this Act and relating to any immoveable property, shall take effect against any oral agreement or declaration relating to such property, whether possession thereof has or has not been delivered.

49. All documents, not testamentary, duly registered under this Act, and relating to any moveable property, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

50. No instrument required by section seventeen to be registered, and no part of any such instrument, shall be received in evidence for any purpose whatever in any civil proceeding in any court,

or shall be acted on by any public servant as defined in the Indian Penal Code,

or shall affect any property comprised therein,

unless the instrument has been registered in accordance with the provisions of this Act.

*Illustration 1.*—A executes a bond for one thousand rupees and, by the same document, mortgages certain land worth more than one hundred rupees by way of collateral security for the re-payment of the one thousand rupees. The document is not receivable in evidence for the purpose of enforcing against A personally the re-payment of the money secured thereby.

*Illustration 2.*—A executes a conveyance of land worth more than one hundred rupees. The conveyance recites the receipt of the purchase-money. The recital cannot be received in evidence except in a criminal proceeding.

51. Every instrument of the kinds mentioned in clauses 1, 2 and 3 of section eighteen, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered instrument executed after this Act comes into force and relating to the same property, whether such other

instrument be of the same nature as the registered instrument or not.

### *Special Registration of Bonds, Bills of Exchange, and Promissory Notes.*

52. Whenever the obligor and obligee of a bond,

Record of agreement that amount secured by a bond may be recovered summarily. or the drawer, acceptor, or an indorser and the payee or an indorsee of a bill of exchange,

and the maker or an indorser and the payee or an indorsee of a promissory note,

agree that, in the event of the obligation resulting from the bond, bill or note not being duly satisfied, the amount secured thereby may be recovered in a summary way, and, at the time of registering the bond, bill or note, apply to the registering officer to record the said agreement, the registering officer, after making such enquiries as he thinks proper, shall record such agreement at the foot of the endorsement and certificate required by sections sixty-six and sixty-eight,

and such record shall be signed by him and by the obligor, drawer, acceptor, maker or indorser, or by some person expressly authorised in this behalf by a power of attorney from such obligor, drawer, acceptor, maker or indorser,

and shall be copied into the Register Book No. 1 or No. 6, as the case may be,

and shall be *prima facie* evidence of the said agreement.

53. Within one year from the date on which the amount becomes payable,

or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable,

the said obligee, payee or indorsee may present a petition to any court which would have had jurisdiction to try a regular suit on such bond, bill or note for the amount secured thereby, or for the instalment sought to be recovered.

The petition may be amended by permission of the court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

On production in court of the bond, bill or note and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the court.

Such decree may be enforced forthwith against the obligor, drawer, acceptor, maker or indorser signing as aforesaid, under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

54. In any proceedings under this Part of this Act, the court may order the bond, bill, or note sought to be deposited with an officer of the court, and may



further order that all proceedings be stayed until the petitioner has given security for costs thereof.

55. After decree, the court may under special circumstances set aside the decree, and if necessary stay or set aside execution; but there shall be no appeal against any decree or order made under section fifty-three, section fifty-four, or this section.

Court may, under special circumstances, set aside decree.

#### PART XI.

##### *Of the duties and powers of Registering Officers.*

###### *(A.) As to the Register Books and Indexes.*

56. The following Books shall be kept in the several offices hereinafter named (that is to say),—

Register Books to be kept in the several offices.

###### *In all Registry Offices—*

Book 1, "Register of instruments relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

###### *In the Offices of Sub-Registrars—*

Book 3, "Register of deposits of wills and authorities to adopt;" and

###### *In the Offices of Registrars and of Sub-Registrars—*

Book 4, "Register of wills and authorities to adopt;"

Book 5, "Register of Decrees and Orders;"

Book 6, "Miscellaneous Register."

In Book 1 shall be entered all documents registered under section seventeen and the first four clauses of section eighteen, and all other documents mentioned in section eighteen, clause 7, which relate to immoveable property.

In Book 5 shall be filed all memoranda of decrees and orders sent under section forty-two.

In Book 6 shall be entered all documents registered under clauses 5 and 7 of section eighteen, and not entered in Book 1 or in Book 5.

57. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section seventy, every document admitted to registration shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its presentation.

58. All entries in each book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Entries to be numbered consecutively.

59. In every office in which any of the books next hereinafter mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, in alphabetical order and immediately after the document to which it relates has been copied by or by order of the registering officer.

Current indexes and entries therein.

60. Two such indexes shall be made in all registry offices, and shall be named, respectively, Index No. I. and Index No. II.

Indexes to be made by registering officers.

Index No. I. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book No. 5.

Index No. II. shall contain such particulars mentioned in section twenty-one, relating to every such document, as the Registrar General from time to time directs in that behalf.

A third index to be called Index No. III. shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 6.

Indexes Nos. I., II. and III. shall also contain such other particulars, and shall be prepared in such form, as the Registrar General from time to time directs.

Extra particulars in indexes.

61. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar General from time to time directs, two copies of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I. and II.

Two copies of entries in Indexes Nos. I. and II. to be sent by Sub-Registrar to Registrar.

62. Every Registrar receiving such two copies shall in every month file one of such copies in his Indexes Nos. I. and II., respectively; and, at such intervals as the Registrar General from time to time directs, shall send the other of such copies to the general registry office.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's indexes, and the other to be sent to general registry office.

Every Registrar shall also send to the general registry office a copy of all the entries which he shall have made in his Indexes Nos. I. and II., respectively, during the last of such intervals.

Copy of entries in Registrar's indexes.

63. On the receipt in the general registry office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I. and II., respectively, kept in such office.

Copies sent by Registrar to be filed in indexes of general registry office.

64. If the Registrar General so directs, an alphabetical index shall be prepared in every registration office at the end of each year of all entries made during the past year in the current indexes in such office; and in every

Annual alphabetical index to entries in indexes.

office in which Book No. 2 is kept, an alphabetical index shall be prepared at the end of each year to the entries made in such book during the past year.

65. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2 and 5 and the indexes relating to such books shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section seventy, copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Books Nos. 3, 4 and 6 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer.

Such copies shall be signed and sealed by the registering officer, and shall be *prima facie* evidence of the contents of the original documents.

(B.)—As to the procedure on admitting to registration.

66. On every document admitted to registration, there shall be endorsed from time to time the following particulars (that is to say),—

(1) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document declines to endorse the same, the registering officer shall refuse to register it.

67. The registering officer shall affix the date and his signature to all endorsements mentioned in the last preceding section, relating to the same document and made in his presence on the same day.

68. After such of the provisions of sections thirty-six, sixty-six, and sixty-seven as apply to the case have been complied with, the registering officer shall endorse on the document a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Such certificate shall be signed, sealed and dated by the registering officer and shall then be *prima facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section sixty-seven have occurred as therein mentioned.

69. The endorsements and certificate mentioned in sections sixty-seven and sixty-eight shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section twenty-one shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section fifty-seven.

70. When a document is presented for registration under section nineteen, the translation shall be transcribed in the register of instruments of the nature of the original, and, together with the copy referred to in section nineteen, shall be filed in the registry office.

The endorsements and certificate respectively mentioned in sections sixty-seven and sixty-eight shall be made on the original, and for the purpose of making the other copies required by sections seventy-two, seventy-three, seventy-four, and seventy-eight, the translation shall be treated as if it were the original.

71. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible as *prima facie* evidence of the facts therein stated.

(C.)—Special duties of Sub-Registrar.

72. Every Sub-Registrar on registering a document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in section twenty-one, to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file such copies in his Book No. 1.



**73.** Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in section twenty-one as may be necessary, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate.

The Registrar on receiving the same shall enter in his Book No. 1 the copy of the document and one of the copies of the map or plan (if any), and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

**74.** A will and an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any person entitled to present the same, other than the testator or donor, shall be registered if the Sub-Registrar is satisfied

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under section forty-four, entitled to present the same.

**75.** On receiving for deposit a sealed cover under section forty-four, the Sub-Registrar, if satisfied that the depositor is the testator or donor, as the case may be, or his duly authorized agent, shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.

The Sub-Registrar shall then send the cover to the Registrar to whom he is subordinate, and the Registrar shall, on receipt thereof, retain the sealed cover in his fire-proof box.

Nothing in this section or in section forty-six shall be deemed to affect the provisions of the Indian Succession Act, section two hundred and fifty-nine, or the power of any Court by order to compel the production of any will for the purposes of granting probate or letters of administration with the will annexed. But whenever any such order is made, the Registrar shall copy the will in his Book No. 4 and make a note on such copy that the original has been removed into court in pursuance of the order aforesaid.

*(D.)—Special Duties of Registrar.*

**76.** On registering any instrument not testamentary relating to immoveable property under section thirty-two, the Registrar shall

forward a copy of such instrument, together with a copy of the map or plan (if any) mentioned in section twenty-one, to each Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate.

He shall also forward a copy of such instrument, together with such number of copies of the map or plan if (any) mentioned in section twenty-one, as may be necessary, to any other Registrar in whose District any part of such property is situate.

Every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them, respectively, in section seventy-three.

**77.** Every memorandum received under section forty-one shall be copied in the margin of the part of the book in which the document affected by such memorandum is registered;

and for this purpose the Registrar shall send a copy of such memorandum to every Sub-Registrar in his District in whose office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his office.

When any such memorandum relates to immoveable property situate in more Districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose District any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this section.

Every memorandum received by a Registrar under section forty-two shall be filed by him in his Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

*(E.)—Of the Registrar General.*

**78.** On any instrument being registered in the general registry office under section thirty-one, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate.

The Registrar receiving such copy shall follow the procedure prescribed for him in section seventy-three.

The Registrar receiving such copy shall follow the procedure prescribed for him in section seventy-three.

*(F.)—Of the controlling powers of Registrars and Registrars General.*

**79.** Every Sub-Registrar shall perform the duties of his office under the superintendence and controul of the Registrar in whose District the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect

of the rectification of any error regarding the Book or the office in which any document shall have been registered.

**80.** The Registrar General shall exercise a general superintendence over all the registry offices in the territories under the Local Government, and shall have power from time to time to frame rules consistent with this Act—

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

declaring the languages in which and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon;

declaring what territorial divisions shall be recognized under section twenty-one;

regulating the amount of penalties imposed under section twenty-four;

regulating the exercise of the discretion reposed in the registering officer by sections fifty-two and seventy-one;

declaring the particulars to be contained in Indexes Nos. I, II and III, respectively;

declaring the holidays that shall be observed in the registry offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars under him.

The rules so framed shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official *Gazette*, and shall then have the same force as if they were inserted in this Act.

**81.** No order shall be made to cancel the registration of any document under this Act, or under any Act hereby repealed.

## PART XII.

### *Of refusal to register.*

**82.** Every registering officer refusing to register a document, unless because he has a discretion to refuse to accept it for registration, or unless because the property to which it relates is not situate within his District or Sub-District,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

**83.** An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order:

Provided that, whenever the Registrar has himself as Sub-Registrar passed the order appealed against, the appeal shall lie to the Registrar General.

Any Registrar or Registrar General refusing to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, and on his furnishing a stamped paper of the value of eight annas, shall, without unnecessary delay, give him a copy of the reasons so recorded.

**84.** If a Registrar or Registrar General makes under section eighty-two an order of refusal to register any document referred to in section twenty-nine,

or if he has made a like order under section eighty-three of Act No. XX of 1866,

or if on appeal under section eighty-three he makes an order of refusal to direct the registration of such document,

any person claiming thereunder, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply by petition to the District Court, in order to establish his right to have the document registered.

**85.** The petition shall be in the form contained in the second Schedule to this Act, or as near thereto as circumstances permit, and shall be accompanied by copies of the reasons recorded under sections eighty-two and eighty-three; and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of complaints, and the petition may be amended by permission of the Court.

The document shall be admissible in evidence on the presentation and hearing of the petition, anything hereinbefore contained to the contrary notwithstanding.

The document shall be admissible in evidence on the presentation and hearing of the petition, anything hereinbefore contained to the contrary notwithstanding.

**86.** The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the court thinks fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.



87. On the day so fixed as aforesaid, the Court may summon and enforce the attendance of witnesses and compel them to give evidence,

and if it finds that the document has been executed, and that the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration, the court, unless satisfied that the order next hereinafter mentioned would work injustice, shall order such Registrar or Registrar General to register the document, or to direct its registration in the proper manner,

and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in sections sixty-six, sixty-seven and sixty-eight.

If the document be duly presented for registration within thirty days after the making of such order, the registration pursuant thereto shall take effect as if the document has been registered when it was duly presented for registration to the officer so refusing as aforesaid :

Provided that when the officer presiding over the District Court has himself as registering officer made any order complained of under this section, the petition shall, within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

No appeal lies from any order made under this section.

### PART XIII.

#### *Of the fees for registration, searches and copies.*

Fees for registration, searches and copies to be fixed by Local Government.

88. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

- for the registration of documents :
- for searching the registers :
- for making or granting copies of reasons, entries or documents, before, on or after registration ;

And of extra or additional fees payable—

- for every registration by a Registrar General under section thirty-one, or by a Registrar under section thirty-two :
- for special registration under section fifty-two :
- for the issue of commissions :
- for filing translations :
- for attending at private residences :

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

The Local Government may from time to time, subject to the like approval, alter such table.

A table of the fees so payable shall be published in the official *Gazette*, and a copy thereof in

English and the Vernacular language of the District shall be exposed to public view in every registration office.

89. All fees for the registration of documents under this Act shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable under section fourteen to officers who are paid wholly or in part by fees), and all penalties received under section twenty-four, shall be remitted to the treasury of the District or Sub-District, or to such other treasury as the Local Government from time to time directs, and shall be credited to Government.

### PART XIV.

#### *Penalties.*

90. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under the provisions of this Act, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

91. Whoever intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

92. Whoever intentionally delivers to a registering officer in any proceeding under section nineteen or twenty-one a false copy or translation of a document, or a false copy of a map or plan, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

93. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

94. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

95. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be instituted by the Registrar General,

the Branch Registrar General, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

All prosecutions under this Act shall be instituted and carried out before a person exercising the powers of a Magistrate or Subordinate Magistrate of the first class; and all fines imposed under this Act may be recovered in the manner prescribed in section sixty-one of the Code of Criminal Procedure.

96. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section two hundred and twenty-eight of the said Code, the words "judicial proceeding" shall include any proceeding under this Act.

#### PART XV.

##### Miscellaneous.

Registering officer not to be liable for anything *bona fide* done or refused in his official capacity.

97. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

98. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing done by registering officer to be invalidated by defect in his appointment or procedure.

99. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section sixty-six.

Registration of instruments executed by Government officers or certain public functionaries.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government or to such officer of Government, Administrator General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

100. Notwithstanding anything herein contained, every document of the kinds mentioned in sections seventeen and eighteen, executed in British Burma before the first day of January 1871, and every jama sanad executed in Coorg before that date, shall be accepted for registration, if duly presented for registration within twelve months from such date.

Time for registering documents executed in Burma and Coorg before 1st January 1871.

##### Exemptions from Act.

101. Nothing contained in this Act or any Act hereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

Exemption of certain documents executed by or in favour of Government.

(a.) Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(b.) Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, other than waste land, and which form part of the record of such survey.

(c.) Documents which, under any law for the time being in force, are filed annually by patwaris or other officers charged with the preparation of village records.

(d.) Sanads, inam title-deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land, in reward for special services.

But all such documents and maps shall, for the purposes of sections forty-eight and fifty, be deemed to have been and to be registered in accordance with the provisions of this Act.

102. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section one hundred and one, clauses *a*, *b* and *c*, shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Inspection and copies of such documents.

103. A copy of every document mentioned in section one hundred and one, clause *d*, and executed on or after the first day of January 1871 shall, as soon as may be after its execution, be sent by the Local Government to the Registrar or to every Registrar within whose District the whole or any part of the immoveable property comprised in such document is situate, and shall be filed by him in his Book 1.

Copies of sanads to be filed by Registrar.

##### Madras Inam title-deeds.

104. Nothing contained in this Act, or in any Act hereby repealed, shall be deemed to require, or to have required, the registration of any title-deed for inam lands issued by the Inam Commissioner in the Presidency of Fort St. George.

Exemption of Madras inam title deeds.

The provisions of section one hundred and three shall not apply, and the provisions of section three of Act No. XXVII of 1868 shall be deemed not to have applied, to any such title deed.

Subject to such rules as the Local Government from time to time prescribes in this behalf, all the District Registers of inams kept under the rules for the adjudication and settlement of inam lands in the said Presidency sanctioned by the Local Government and published in the *Fort St. George Gazette* dated the fourth day of October 1859, shall be open to the inspection of any person applying to inspect the same, and subject as aforesaid, copies of the said registers shall be given to all persons applying for such copies.



## FIRST SCHEDULE.

## PART I.

Serial No. of registered instrument with Page, No. and Volume of Register in which it has been entered.	Names of parties to and No. of the suit, and whether an original or appealed suit.	Description of the immoveable property referred to in the instrument.	Effect of the decree or order on the instrument.	Date on which decree or order was passed.	Name and official designation of judge or officer by whom the decree or order was passed.

(Signed) A. B.

## PART II.

Names of parties to, and No. of the suit, and whether an original or appealed suit.	Description of the immoveable property affected by the decree or order.	Effect of the decree or order on the said property.	Date on which decree or order was passed.	Name and official designation of judge or officer by whom the decree or order was made.

(Signed) A. B.

5 4

## SECOND SCHEDULE.

*Form of petition under section 84.*Stamp  
eight  
annas.

To the Judge of the District Court [or To the Deputy Commissioner] of

The day of 18 .

The petition of A. B. of

Sheweth—

1. That by an assurance dated the day of and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such assurance was executed by the said C. D. on the day of 18 .

3. That the property to which such assurance relates is situate in the Sub-District of the Sub-Registrar of and in the District of

4. That on the day of your petitioner presented the said assurance for registration under "The Indian Registration Act, 1870," in the office of the said Sub-Registrar, and on such presentation the said C. D. appeared personally before the said Sub-Registrar, and admitted the execution of the said assurance [or and falsely denied the execution of the said assurance].

5. That the said C. D. is personally known to the said Sub-Registrar [or adduced evidence that he was the person he represented himself to be, or that your petitioner adduced evidence that the said C. D. was the person he represented himself to be].

6. That the said Sub-Registrar thereupon made an order of refusal, dated the day of 18 , to register the said assurance and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

7. That your petitioner on the day of appealed to the Registrar of against such order.

8. That the said Registrar thereupon made an order of refusal, dated the day of to direct the registration of the said assurance, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient [or that your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so].

Your petitioner, therefore, prays that your Honour will order the said Sub-Registrar to register the said assurance.

A. B.

*Form of Verification.*

I, A B, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

## STATEMENT OF OBJECTS AND REASONS.

The Indian Registration Act has now been in force for nearly five years. It has gradually been extended to the whole of British India, except Oudh and Burma, and it has attained its two great objects,—discouraging forgery and false evidence, and creating a trustworthy record of title to immoveable property.

In 1868 it was found expedient to exclude from its operation certain instruments executed by, or in favour of, Government, and the Government of Madras has recently applied for similar legislation as regards inam title-deeds.

To consolidate and amend the law on the subject is obviously preferable to adding a fourth Act to the three in which that law is now contained. The present Bill accordingly repeals and re-enacts Acts XX of 1866 and XXVII of 1868. It incorporates the provisions as to registration contained in the Military Cantonments Act No. XXII of 1864, sections 10 and 45. It extends the system of registration to the whole of British India, except Oudh. It renders written authorities to adopt compulsorily registrable. It enables Sub-Registrars to register wills and authorities to adopt and to receive deposits of such documents. It also enables Sub-Registrars to institute prosecutions without the Registrar's sanction; and it excludes from its operation Madras inam title-deeds.

Besides these substantial changes, the Bill effects various minor amendments suggested by the practical experience gained in working the Act of 1866. These may be shortly stated as follows:—

With reference to Mr. Justice Norman's decision in *Jalu Namdar v. Beicha Namdar*, 3 Ben. L. R., A. C. J. 394, "moveable property" has been defined so as to include juice in trees. And "addition" has been made to include, in the case of a Native, his father's name.

In section 10, provision has been made for cases where there are more District Courts than one.

Section 17 has been expressly made applicable to leases from year to year, and to those leases (common in Bengal) which merely reserve a yearly rent.

In *Narāyana Swāmi's Pillai's case*, 4 Mad. H. C. Rep. 91, Sir Adam Bittleston ruled that the provisions in Act XX of 1866, section 21, as to the description of houses and land, are merely directory. The Bill, section 22, embodies this ruling, which is clearly in accordance with the intention of the Act.

In section 32 the words 'including a Presidency town' have been omitted so as to render it possible for any Local Government to amalgamate in the Mofussil a Registry and a Sub-Registry Office.

It has been held by the Advocate General of Bengal that section 36 of Act XX of 1866, requires the persons executing a document to appear simultaneously before the Registering Officer. Such requirement is obviously inconvenient and unnecessary. The corresponding section of the Bill expressly provides that such appearances, if within the time allowed for presentation, may be either simultaneous or at different times.



In the same section the Bill expressly authorizes the Registering Officer to refuse to register where any person executing the document denies its execution, or where an executant appears to be a minor, an idiot, or a lunatic. This is in accordance with the views of the Advocate General of Madras.

Section 37 empowers the Registering Officer to require the Revenue Officer in whose jurisdiction any executant or witness, whose attendance is desired may be, to issue and to serve a summons requiring him to attend at the Registration Office. Some difficulty has been felt in Madras and elsewhere as to the Revenue Officer thus indicated, and the section has been altered by substituting for "the Revenue Officer" the words "such Revenue or Civil Court as the Local Government directs in this behalf."

In working Part VIII of Act XX of 1866, (as to sending to the Registry Office memoranda of decrees and orders affecting immoveable property) difficulty has been found in recovering the costs of registration. The Bill accordingly provides that the party in whose favour the decree or order has been made, shall himself present and pay for registering the memorandum, and that no such decree or order shall be of any force until a memorandum thereof has been registered. Forms of memoranda are given in the first Schedule. They must be registered within four months of the date of the decree or order, and the operation of the Part is confined to cases when the subject matter is of the value of Rs. 100 or upwards.

Section 48 of that Act provides that registered instruments relating to any moveable or immoveable property shall take effect against oral agreements relating thereto. The effect of this provision is (it has been argued) that a purchaser even of any trivial article bought in a shop and handed over the counter, has against any subsequent registered purchaser a defective title. The Bill accordingly by an additional section (49) precludes the operation of the former clause as regards moveables, where the agreement has been accompanied or followed by delivery of possession.

Certain decisions of the High Court at Fort William have made serious inroads on section 49 of the same Act, which declares that no instrument required to be registered "shall be received in evidence in any civil proceeding in any Court." The High Court has decided that an unregistered document requiring registration as affecting an interest in land is admissible in evidence in a civil proceeding for any purpose for which registration is unnecessary. The section has been re-drawn, so as to preclude, it is hoped, in future, a construction so opposed to the intention of the Legislature.

Section 51 of Act XX of 1866 prescribes the period of limitation for certain suits under a registered contract. The section has been omitted as it will find a fitter place in the Limitation Bill now being prepared in the Legislative Department.

Words have been introduced into section 53, showing clearly that the summary remedy provided on a specially registered bond is available only as against the person signing the agreement mentioned in section 52.

Section 57 has been altered so as to require the copying of such documents only as are *admitted* to registration.

The note taken by the Registering Officer under section 71, has been made admissible as *prima facie* evidence of the facts therein stated.

As regards the procedure on the deposit of wills, the Bill provides, with reference to the case of *Nagindas*, 3 Bom. H. C. Rep. 135, decided by the present Chief Justice of the High Court at Bombay, that nothing in the Registration Act shall affect the power of any Court by order to compel the production of a will for the purposes of probate. Whenever any such order is made, the Registrar will copy the will in his book No. 4, and make a note on such copy that the original has been removed in pursuance of the order.

Section 84, as to the procedure when a Registrar refuses to register or to direct registration, has been made clearer. The Court has been expressly empowered to summon witnesses and compel them to give evidence; and the discretion reposed in it as to directing registration has been limited in accordance with the views of Sir Adam Bittleston (4 Mad. H. C. Rep. 97). Appeals from orders under this section have been expressly precluded (3 Bom. H. C. Rep. A. C. J. 104).

Provision has been made for admitting to registration, within twelve months after the new Act comes into force, of jama sanads executed in Coorg.

Lastly, the sections relating to penalties have been placed in a separate Part, and the wording of the Bill has been carefully settled with reference to all the reported decisions of the High Courts on Acts XVI of 1864 and XX of 1866.

F. R. COCKERELL.

SIMLA;

The 18th September 1870.

WHITLEY STOKES,

Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

No. 25 of 1870.

*A Bill to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.*

Whereas it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the

Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

#### PART I.—*Preliminary.*

1. This Act may be called "The Bengal Civil Courts Act, 1870."

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors except such portions thereof as have been, or may hereafter be, removed by express enactment from the jurisdiction of the High Courts.

And it shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the first Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.

#### PART II.—*Constitution of Civil Courts.*

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government: Provided that no increase to the present number of District Judges shall be made by such Government without the previous sanction of the Governor General in Council.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may, from time to time, be altered by the Local Government: Provided that no increase of the total number so appointed before the passing of this Act shall be made without the previous sanction of the Governor General in Council.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or when it is necessary to increase the number of Subordinate Judges, the Local Government shall, subject to the provisions of section three, supply such vacancy or appoint such additional Subordinate Judges, as it thinks fit.

6. Whenever the office of a Munsif is vacant, or when it is necessary to increase the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. The present Judges of the Zila Courts, Subordinate Judges and Munsifs shall be the first District Judges, Subordinate Judges, and Munsifs under this Act.

8. The Local Government shall have power to fix, and, from time to time, alter the place at which any Court under this Act is to be held.

9. Every District Judge, Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the form in the second Schedule to this Act.

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by a Sub-Judge or Munsif, before the District Judge.

10. Every Court under this Act shall use a seal of such form and dimensions as shall, from time to time, be prescribed by the Local Government.

11. Every District Judge, Subordinate Judge, and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

#### PART III.—*Ordinary Jurisdiction.*

12. The Local Government shall fix, and may, from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act.

13. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits cognizable by the Civil Courts.

14. The jurisdiction of a Munsif extends to all like suits of which the amount or value in dispute does not exceed one thousand rupees.

15. A regular or summary appeal shall, when such appeal is allowed by law, lie from the decrees and orders of a District Judge to the High Court.

16. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except when the amount or value of the subject-matter of the suit exceeds five thousand rupees, in which case the appeal shall lie to the High Court.

17. Every Court established under this Act shall have power to require a witness, or party to any suit pending in such Court, to take such oath as is prescribed by the law for the time being in force.



18. Where in any suit it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in the case of Muhammadans, and the Hindú law in the case of Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

Where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

19. No District Judge, Subordinate Judge or Munsif shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such officer as aforesaid, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference. The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure.

#### PART IV.—*Special Jurisdiction.*

20. When the number of appeals from the orders of a Subordinate Judge pending before any District Judge requires the aid of additional Judges for the speedy adjudication and decision of such appeals, the Local Government may, upon the recommendation of the High Court, and (so far only as regards the additional expenditure involved in such appointment) subject to the sanction of the Governor General in Council, appoint such additional Judges as may be requisite.

The Additional Judges so appointed shall, previously to entering upon the execution of the duties of their office, make and subscribe the same declaration as is required to be made by the District Judges.

They shall perform any of the duties of a District Judge under Part III, that may be assigned to them, and, in the performance of such duties, shall exercise the same powers and be guided by the same rules as the District Judge.

The present Additional Judges shall be deemed to have been appointed under this Act.

21. The Local Government may invest any Subordinate Judge with the powers of a Munsif under section fourteen, and may define and, from time to time, vary the local limits within which such powers are to be exercised.

22. Every District Judge may, from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals depending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

23. The High Court may, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any civil proceeding (not being suits), or any class of such proceedings, specified in such order, and then pending or thereafter instituted, before such District Judge.

All proceedings so transferred shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

24. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees, and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

25. Section fifty-one of Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil Jurisdiction of the High Courts of Judicature), shall be read as if for the words "Principal Sadr Amin," the words "Subordinate Judge" were substituted.

#### PART V.—*Misfeazance.*

26. A District Judge or Additional Judge may, for any misconduct, be suspended or removed by the Local Government.

27. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report the circumstances of the suspension, and the Local Government may direct the dismissal of the Subordinate Judge, or make such other order as the case may require.

**28.** The High Court may suspend any Munsif or may appoint a Commission for enquiring into his alleged misconduct.

*Suspension of Munsifs by High Court.*

The provisions of Act No. XXXVII of 1850 (*for regulating inquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

On receiving the report of the result of such inquiry, the High Court may remove or suspend from office such Munsif, or may reduce him to a lower grade.

**29.** Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

*Suspension of Munsifs by District Judges.*

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

#### PART VI.—Ministerial Officers.

**30.** The Ministerial Officers of the District Courts shall be appointed, and may be removed, suspended, or fined in an amount not exceeding one month's salary, by the Judges of such Courts, whose orders in such matters shall be final.

**31.** The Ministerial Officers of the Courts of Subordinate Judges and Munsif shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

*Appointment, removal and suspension of Ministerial Officers of Subordinate Judges and Munsifs.*

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. But every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

**32.** All fines imposed under this Part may be recovered by deduction from the salary of the offender.

*Recovery of fines.*

#### PART VII.—Miscellaneous.

**33.** In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like functions, and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.

*Death, incapacity or absence of District Judge.*

**34.** A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office.

*Vacancy in Munsif's office.*

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

**35.** The general control over all the Civil Courts in any District is vested in the District Judge. He may issue such directions for the guidance of the Subordinate Courts with respect to any matter not provided for by law as he thinks necessary, and the said Courts shall obey such directions.

*Control of Civil Courts in a District.*

**36.** Subject to such orders as may, from time to time, be issued by the Governor General in Council or by the Local Government, the High Courts shall prepare a list of days to be observed in each year as close holidays in such Courts and in the Courts, respectively, subordinate to them, and such list shall be published at the commencement of each year in the local official *Gazette*.

*List of holidays.*



## FIRST SCHEDULE.

Number and year.	Title.	Extent of Repeal.
Regulation III, 1793 ...	A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adalwut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
„ IV, 1793 ...	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Courts of Patna, Dacca, and Moorshedabad.	Section fifteen.
„ VIII, 1833 ...	A Regulation for the occasional appointment of additional Judges of the Zillah and City Courts.	The whole.
Act L of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
„ XVI of 1868 ...	An Act to consolidate and amend the law relating to Principal Sadr Amíns, Sadr Amíns, and Munsifs in Bengal, and for other purposes.	The whole.
„ II of 1870 ...	An Act to provide for the appointment of Additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

## SECOND SCHEDULE.

*Form of declaration to be administered to persons appointed to the office of District Judge, Additional Judge, Subordinate Judge, or Munsif.*

I, A B, appointed to the office of \_\_\_\_\_ of \_\_\_\_\_ do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B.

District [or Additional or Subordinate] Judge of

Munsif of

## STATEMENT OF OBJECTS AND REASONS.

The law relating to the constitution and jurisdiction of the District (or zila) courts in Lower Bengal and the North-Western Provinces is now spread over the following enactments:—

Regulation III of 1793 (Bengal Code).

"	IV	"	"
"	VII of 1795	"	"
"	VIII	"	"
"	II of 1803	"	"
"	III	"	"
"	VIII of 1805	"	"
"	VIII of 1833	"	"
"	Act L of 1860.	"	"

The repeal of Regulations VII of 1795, VIII of 1795 (except section ten), II and III of 1803, and VIII of 1805, as enactments purporting only to extend to the North-Western Provinces the provisions of the earlier Regulations of 1793 in regard to the zila courts, has been already proposed in connection with the Bill for defining the local extent of the general Regulations and Acts now before the Council.

In pursuance of the general scheme of consolidation, it has now become necessary to gather together the remaining fragments of the Regulation-law on this subject, and to combine them with the recently consolidated law (Act XVI of

1868) regarding the civil courts subordinate to the zila courts.

A further object of the present Bill is to supply certain omissions of Act XVI of 1868 in regard to the jurisdiction of sub-Judges and Munsifs.

The older Regulations provide that the zila courts shall, in the determination of cases relating to inheritance, marriage, caste, or religious usage, be guided by the Muhammadan law where the parties to the cause are Muhammadans, and by the Hindú law where the parties are Hindús; also, that in cases for which no specific rule exists, the said courts shall act in accordance with equity and good conscience.

The application of these rules was, on the subsequent creation of the Courts of Munsifs, Sadr Amíns (now designated Munsifs) and Principal Sadr Amíns (now Subordinate Judges) extended to such courts; but the extending provisions were, apparently through inadvertence, included in the wholesale repeals which followed the introduction of the Code of Civil Procedure, and they were not revived when Act XVI of 1868 was enacted.

SIMLA,

The 7th October 1870.

F. R. COCKERELL.

WHITLEY STOKES,

Secy. to the Govt. of India.





# The Gazette of India.

Published by Authority.

SIMLA, SATURDAY, OCTOBER 15, 1870.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making  
Laws and Regulations, or published under Rule 19.

The following Bill was introduced into the Council  
of the Governor General of India for the  
purpose of making Laws and Regulations on  
the 3rd October 1870.

No. 22 of 1870.

*A Bill to consolidate the laws relating to Prisoners  
confined by order of a Court.*

For the purpose of consolidating the laws relat-  
ing to prisoners confined by  
order of a Court; It is hereby  
enacted as follows :—

### PART I.—PRELIMINARY.

- |                 |  |
|-----------------|--|
| Short title.    | 1. This Act may be called<br>"The Prisoners' Act, 1870."                 |
| Local extent.   | It extends to the whole of<br>British India.                             |
| Commencement.   | And it shall come into force<br>on the passing thereof.                  |
| Repeal of Acts. | 2. The Acts mentioned in<br>the Schedule hereto annexed<br>are repealed. |

### PART II.—PRISONERS IN THE PRESIDENCY TOWNS.

- |  |   |
|--|---|
| 3. All writs or warrants for the arrest or ap-<br>prehension of any person, issued<br>or awarded by the High Court<br>in the exercise of its ordinary, | Warrants and writs<br>to be directed to<br>Police Officers. |
|--|---|

extraordinary, or other criminal jurisdiction, shall  
be directed to and executed by any officer of Police  
within the local limits of such jurisdiction.

4. The Local Government may appoint an officer  
who shall be called in Calcutta  
the Superintendent of the Pre-  
sidency Prisons, and in Madras  
and Bombay the Superinten-  
dent of Prisons for the town of Madras or Bombay,  
as the case may be, and who shall have authority  
to receive and keep prisoners committed to his  
custody under the provisions of this Part.

Superintendents to detain persons com- mitted.	5. The said prisons shall be the prisons of Calcutta, Madras, and Bombay respectively,
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and the Superintendents so appointed are hereby  
respectively authorized and required to keep and  
detain all persons duly committed to their custody  
pursuant to the provisions of this Act, or other-  
wise, by any Court, Judge, Justice of the Peace,  
Magistrate of Police, Coroner, or other public  
officer lawfully exercising civil or criminal juris-  
diction according to the exigency of any writ,  
warrant or order by which such person has been  
committed, or until such person is discharged by due  
course of law.

- |   |  |
|---|--|
| 6. The said Superintendent shall forthwith<br>after the execution of every such<br>writ, order, or warrant, except<br>warrants of commitment for<br>trial, or after the discharge of<br>the person committed thereby, return such writ,<br>order, or warrant to the Court or other officer by<br>which or by whom the same, has been issued | Superintendents to<br>return writs, &c., after<br>execution or discharge<br>with certificates. |
|---|--|

or made, together with a certificate endorsed thereon and signed by such Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

8. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

9. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

10. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

11. Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the said Superintendent, together with a warrant of the Court.

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court,

together with the warrant of commitment, in order that he may be dealt with according to law.

13. Pending any such enquiry as is mentioned in section eight of Act No. XXIII of 1861 (*to amend Act XXXIII of 1861, VIII of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and such Superintendent is hereby authorized and required to detain such defendant in safe custody until he is redelivered to the Officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

14. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*),

or in pursuance of a warrant issued under section three of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction; and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the confinement of State prisoners*), Regulation II of 1819 of the Madras Code (*for the confinement of State prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State prisoners, and for the attachment of the lands of Chieftains and others, for reasons of State*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better custody of State prisoners*), and Act No. III of 1858 (*to amend the law relating to the arrest and detention of State prisoners*).



16. Section twenty-five of Act No. XLVIII of 1860, shall be construed in Bombay as if the words "Superintendent of prisons for the town of Bombay," were substituted for the words "Keeper or Governor of the Jail or House of Correction."

### PART III.—PRISONERS IN THE MOFUSSIL.

17. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence passed by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General of India in Council, or of any Local Government.

18. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

19. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

#### Persons convicted in Native States.

20. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences,—

thuggee, dacoity, belonging to any gang of thugs or dacoits,

murder, culpable homicide,

administering poison or any other thing with intent to cause hurt or commit, or to facilitate the commission of an offence,

rape, voluntarily causing grievous hurt,

child-stealing, selling females, robbery, house-breaking, cattle theft,

malicious and wilful burning of houses, forgery, counterfeiting coin, or uttering counterfeit coin,

criminal breach of trust, criminal misappropriation of property,

attempt to commit any of the above offences,

abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive (*samādhi*), or of any of the other offences above specified,

and for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided always that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, is one of the presiding Judges.

21. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

### PART IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

22. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General of India in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with:

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge, or part discharge, of the term of the sentence.

23. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

24. The Governor General in Council may grant to any convict hereafter to be sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such

conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

25. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of license to be allowed to go at large.

26. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

If license revoked, the convict may be apprehended.

27. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by a Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

Execution of warrant.

28. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the district in which the convict is apprehended.

Apprehended convict to be brought up for recommitment.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the recommitment of the convict to the prison from which he was released by virtue of the said license.

29. Such convict shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the period mentioned in the original sentence.

Recommitment.

30. If a license be granted under section twenty-five upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

Penalty for breach of condition of the license.

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

#### PART V.—REMOVAL OF CONVICTS.

31. When any person is, or has been, sentenced to imprisonment by a Court established by Royal Charter, the Local Government may order his removal during the period prescribed for his imprisonment, from the jail in which he is confined to any other jail within the territories subject to the same Local Government.

Power to remove prisoners sentenced by High Court from one jail to another in the territories under Local Government.

32. Whenever it appears to the Local Government that any person, imprisoned by the sentence of a Court established by Royal Charter, is of unsound mind, such Government, by a warrant setting

Lunatic prisoners sentenced by High Court may be removed to asylum.

forth the grounds of belief that such prisoner is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then, until he is discharged, according to law.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand him to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

Discharge.

The provisions of section nine of Act XXXVI of 1858 (relating to Lunatic Asylums) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

Act XXXVI of 1858, section 9, applied to prisoners in lunatic asylum.

33. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

Governor General in Council may order removal of prisoners from one prison to another.

#### PART VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

34. As soon as any offender is delivered to the person appointed by the Governor General in Council in this behalf at the place to which such offender is transported, the property in his service shall, during the term of transportation, vest in the person so appointed.

Right to service of convicts.



35. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered, and in whom the property in their service shall vest as aforesaid.

36. The Governor General in Council may, from time to time, prescribe rules as to the following matters :—

the classification of convicts;

their confinement, treatment, and discipline;

their punishment for misbehaviour, disorderly conduct, neglect, or disobedience.

#### PART VII.—DISCHARGE OF CONVICTS.

37. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

#### SCHEDULE.

(See Section 2.)

Number and Year.	Subject or Title.	Extent of Repeal.
Act VII of 1837 ...	Charter Courts' power to discharge convicts recommended for pardon.	The whole.
Act XVI of 1840 ...	An Act concerning the management of convicts transported to places within the territories of the East India Company.	The whole.
Act XXIV of 1855 ...	An Act to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Sections five, six, seven, nine, ten, eleven, twelve.
Act XVII of 1860 ...	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
Act VIII of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners.	The whole.
Act VIII of 1865 ...	An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.	The whole.
Act II of 1867 ...	An Act to make further provision for the removal of prisoners.	The whole.
Act XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.	The whole.
Act XXVI of 1869 ...	An Act to correct a clerical error in Act VIII of 1863.	The whole.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate the nine Acts which contain the law relating to prisoners confined by the order of a Court. The Bill preserves intact the substance of the existing law; but some improvements have been made in its arrangement and wording.

SIMLA; } F. R. COCKERELL.  
The 20th September 1870. }

WHITLEY STOKES,  
Secretary to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870.

No. 23 OF 1870.

*A Bill to consolidate the law relating to Trespasses by Cattle.*

Whereas it is expedient to consolidate the law relating to trespasses by cattle; It is hereby enacted as follows:—

Preamble.

*Preliminary.*

Short title. 1. This Act may be called 'The Cattle-trespass Act, 1870.'

It extends to the whole of British India, except such districts or tracts of country as the Local Government, with the sanction of the Governor General in Council, may exclude from its operation.

Local extent.

Commencement. And it shall come into force on the passing thereof.

2. The Acts mentioned in the Schedule hereto annexed shall be repealed to the extent specified in the third column of the said Schedule.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

*Impounding Cattle.*

Cattle doing damage to land may be seized and impounded. 3. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and take them without unnecessary delay to the pound established for the village in which the land is situate.

All Officers of Police shall, when required, give their aid to persons making such seizures.

Police to aid seizures.

4. Pounds shall be established at the district police stations, and at such other places as the Magistrate of the District, under the orders of the Local Government, may determine.

Where pound shall be established.

The village by which every pound is to be used shall be determined and notified by the Magistrate of the District.

5. The pounds shall be under the controul of the Magistrate of the District, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the Local Government from time to time directs:

Controul and management of pounds.

Provided that, in the Presidency of Fort St. George, the village Inspectors, and, in the Presidency of Bombay, the heads of villages and police pátils, shall be *ex-officio* the keepers of village pounds.

6. When cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner, if known, and shall give the seizer a copy of the entry.

Seizures to be registered.

Pound-keeper to take charge of and feed cattle.

The pound-keeper shall take charge of and feed the cattle until disposed of as hereinafter directed.

*Fines.*

7. For every head of cattle impounded as aforesaid, a fine shall be levied according to the following scale:

	Annas.
Camel or buffalo	... eight.
Horse or pony, bull, bullock, or cow	... four.
Calf or ass	... two.
Sheep or goat	... one.

No cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

*Delivery or Sale of Cattle.*

8. If the owner appear and claim the cattle, they shall be delivered to him on payment of the prescribed fine, together with the expenses of feeding the cattle at such rates as may from time to time be fixed by the Magistrate of the District.

Procedure if owner appear and claim the cattle.

The owner, on taking back his cattle, shall sign a receipt for them in the register kept by the pound-keeper.

A list of the fines and of the rates of charge for feeding cattle shall be stuck up in a conspicuous place on or near to every pound.

9. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to such officer of Police as the Local Government appoints in this behalf.

Procedure if cattle be not claimed within a specified time.



Such officer shall thereupon stick up in a conspicuous part of the Police Office a notice stating—

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village, and at the marketplace nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said Officer of Police, or an officer of his establishment deputed for the purpose.

**10. If the owner appear and refuse or omit**

*Procedure if owner appear and refuse or omit to pay the fines and expenses.*

to pay the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by

the said Officer of Police.

The remaining cattle, and the balance of the purchase-money, if any, shall be delivered to the owner, together with an account showing—

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the charge for fines and expenses,
- (d) the number of cattle sold,
- (e) the proceeds of sale,
- (f) the manner in which those proceeds have been disposed of.

The owner shall grant a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account:

Provided that, if a complaint against the seizure has been preferred under the provisions of section fourteen, no sale shall be made until the case has been decided, nor otherwise than according to the order passed in such case.

**11. No Police Officer or pound-keeper shall,**

*Police Officers and pound-keepers not to purchase cattle at a sale under this Act.*

directly or indirectly, purchase any cattle at a sale under this Act.

**12. When cattle are sold under this Act, the**

*Disposal of sale-proceeds, fines, and expenses.*

finer leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

The Officer of Police by whom the sale was made shall send to the Magistrate of the District the fines so deducted, as well as all fines received by the pound-keepers under section eight.

The expenses of feeding so deducted shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under section eight.

The surplus proceeds of the sale of unclaimed cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months and, if no claim thereto be preferred

and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

**13. Out of the sums received on account of**

*Application of fines and unclaimed proceeds of sales.*

finer and the unclaimed proceeds of the sale of unclaimed cattle shall be paid—

(a) the salaries allowed to pound-keepers under the orders of the Local Government,

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and other works of a like nature.

*Complaints of Illegal Seizures.*

**14. Any person whose cattle have been seized**

*Owner may prefer complaint to Magistrate within ten days from date of seizure of his cattle.*

and detained as doing damage to land or any crop or produce thereon may prefer a complaint at any time within ten days from the date of the seizure

to any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by

the Magistrate or other officer as aforesaid, or written upon unstamped paper; and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances.

If the Magistrate on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make a summary enquiry into the case.

If the seizure be adjudged illegal, the Magistrate shall award to the complainant

compensation for the loss caused by the seizure and detention reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure, together with all expenses incurred by the complainant in procuring the release of the cattle; and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure.

Munsifs and other judicial officers having

original jurisdiction, and not invested with criminal powers, may be specially invested by the Local Government with the

power of receiving and trying complaints under this section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate of the District.

All compensation awarded under this section shall be recoverable as if it were a fine imposed by the Magistrate awarding it.

*Cattle damaging Roads, Canals, Embankments.*

15. Persons in charge of public roads, canals, embankments, and the like, may seize, or cause to be seized, any cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall apply to such seizures.

Impounding cattle doing damage to public roads, canals, embankments.

*Stray Cattle.*

16. Village and other Police Officers shall take to the pounds established under section four all cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of cattle seized as trespassing and doing damage, shall apply to all cattle so taken.

Impounding of stray cattle, the owners of which are unknown.

*Penalties.*

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

17. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, or forcibly rescues the same after seizure either from a pound, or from the seizer when conveying or about to convey them to a pound,

shall, on conviction before a Magistrate, be punishable with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

18. When any person commits mischief by causing cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorised to seize cattle under section three.

Recovery of penalty for mischief committed by causing cattle to trespass.

Any fine so adjudged may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

19. Any owner or keeper of pigs, who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

Penalty for damage caused to land or crops or public roads by pigs.

All fines recovered under this and the last preceding section may be appropriated in whole or in part as compensation for loss proved to the satisfaction of the Magistrate.

Application of fines.

*Suits for Compensation.*

20. Nothing herein contained prohibits any person, whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court:

Saving of right of parties to sue for compensation.

Provided that any compensation paid to him under this Act by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Proviso.

## SCHEDULE.

Number and Year.	Title of Act.	Extent of Repeal.
III of 1857 ..	An Act relating to trespasses by cattle.	So much as has not been repealed.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).	The whole.
XXII of 1861	An Act to amend Act III of 1857 (relating to trespasses by cattle).	So much as has not been repealed.

## STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to consolidate the law relating to cattle-trespass, which is now scattered through three Acts,—III of 1857, V of 1860, and XXII of 1861. The opportunity has been taken to improve the arrangement and the wording of the law; to provide that damages awarded for illegal seizures may be recovered as if they were fines; and (with reference to the case of *Reg. v. Lingad bin Giubad*, 4 Bom. High Court Rep. C. C. 14) to declare expressly that a person who, through neglect, permits a public road to be damaged by allowing his pigs to trespass thereon, is liable to be fined. The cases of *Reg. v. Mir Saheb Cassamia*, 1 Bom. High Court Rep. 100; *Reg. v. Mathur Purshotam*, 4 ib. C. C. 13; and *Reg. v. Gangá Kom Mhasu*, 5 ib. C. C. 13, have also been carefully considered.

SIMLA;

The 20th September 1870.

F. R. COCKERELL.

WHITLEY STOKES,

Secretary to the Govt. of India.

The following preliminary Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870:—

No. 20 of 1870.

## THE CORONERS' BILL, 1870.

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*A Bill to consolidate the laws relating to Coroners.*

Whereas it is expedient to consolidate the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

*I.—Preliminary.*

Short title. 1. This Act may be called "The Coroners' Act, 1870."

Local extent. It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay.

Commencement. And it shall come into force on the passing thereof.

Repeal of enactments. 2. The enactments mentioned in the first Schedule hereto annexed are repealed.

*II.—Appointment of Coroners.*

3. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

Their appointment, suspension and removal. 4. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

Coroners to be public servants. 5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

Power to hold other offices. 6. Any Coroner may hold simultaneously any other office under Government.

Oath to be taken by Coroner. 7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

*III.—Duties and Powers of Coroners.*

Jurisdiction to enquire into deaths. 8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed, the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

12. On receiving notice of any death mentioned in section eight the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen persons qualified and liable to serve as jurors under Act No. XIII of 1865 to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a full jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, and the Coroner shall enquire of such circumstances and the cause of the death, and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

18. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest, and every such witness shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read over such parts to the witness and then procure his signature thereto;

any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code;

every such deposition shall be subscribed by the Coroner.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded in.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered, the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(1) where, when, and before whom the inquisition is holden,

(2) who the deceased is,



- (3) where his body lies,  
 (4) the names of the jurors and that they present the inquisition upon oath,  
 (5) where, when, and by what means the deceased came by his death; and  
 (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition may be in the form set forth in the second Schedule to this Act, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or to culpable homicide not amounting to murder, or by killing by a rash or negligent act, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or killing to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and deliver the same, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison, or if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

26. No inquisition found upon or by any inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

27. It shall no longer be the duty of any Coroner to enquire of treasure trove or wrecks, or to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

#### IV.—Coroners' Juries.

28. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person

so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

29. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

30. Unless in case of necessity, no person who has appeared as a juror on an inquest, or has been summoned to appear, and has not made default, shall, within one year after such appearance or the service of such summons, be summoned to appear as a juror under this Act.

31. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

#### V.—Rights and Liabilities of Coroners.

32. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

33. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

34. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

35. No Coroner or Deputy Coroner shall be liable to serve as a juror.

36. Coroners and Deputy Coroners are privileged from arrest while engaged in the discharge of their official duty.

37. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

Penalty for failure to comply with Act.

38. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of six months from such fact or failure, nor after tender of sufficient amends.

Limitation of suits.

### FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
33 Geo. III, cap. fifty-two...	An Act for continuing in the East India Company, for a further term, the possessions of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' juries ...	The whole.
Act No. XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

### SECOND SCHEDULE.

#### *Form of Inquisition.*

An inquisition taken at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 187 \_\_\_\_\_, before E F, Coroner of \_\_\_\_\_ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [or by a majority of \_\_\_\_\_] that the death of the said A B was caused, on or about the \_\_\_\_\_ day of \_\_\_\_\_ 187 \_\_\_\_\_, by [here state the cause of death as in the following examples—

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [or accidental] homicide.  
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or killing by a rash or negligent act.]
2. *Cases of accident*—falling out of a boat into the river Hughli, whereby he was drowned.  
— a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.  
— arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.  
— apoplexy.  
— sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of \_\_\_\_\_;  
G H, I J, K L, M N, O P (jurors).



## REPORT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to which the Bill to consolidate the laws relating to Coroners has been referred, have the honour to present this preliminary report.

The Bill, as introduced, was intended merely to consolidate the existing law contained in two Statutes and three Acts, and it provided, in the words of 33 Geo. III., cap. 52, sec. 157, that the Coroners should exercise the like jurisdictions as by law might be exercised by Coroners elected for counties in England. We have struck out this provision, which would have necessitated constant reference to English statutes and text-books, and we have in lieu thereof codified such part of the English law of Coroners as seemed adapted to the Presidency towns.

The amended Bill accordingly declares the Coroner's jurisdiction to enquire into deaths by accident, homicide or suicide, sudden deaths by means unknown, and deaths of prisoners in prison. It enables him to order a body to be disinterred. It provides for summoning juries, swearing the jurors, viewing the body, summoning witnesses, and *post-mortem* examinations.

It declares that the evidence shall be taken on oath, that witnesses unacquainted with English shall be examined through an interpreter, that questions suggested by the jury shall be put, and that the Coroner shall take down the material parts of the evidence. Power is given to adjourn the inquest. When the witnesses have been examined, the Coroner will sum up, and the jury will consider of their verdict. When the verdict is delivered, the Coroner will draw up an inquisition setting forth the matters specified in section 24, and in the form given in the second Schedule.

When the verdict amounts to murder, culpable homicide, or killing by a rash or negligent act (the last mentioned offence is about to be added to the Penal Code), the Coroner will bind by recognizance any person acquainted with the facts to appear at the next Sessions, and prosecute or give evidence. The Coroner will also certify the recognizances and deliver them with the inquisition and evidence to the Court in which the trial is to be. He may also issue his warrant for the apprehension of the accused.

The amended Bill (section 27) expressly abolishes the Coroner's jurisdiction as to treasure trove and wrecks, and declares that he shall not be liable to execute process.

The Coroner of Calcutta will, under the amended Bill, be appointed by the Lieutenant-Governor of Bengal, and not by the Governor General in Council.

As to Coroners' juries, we have provided (section 31) that when an inquest is held on the body of a prisoner, no officer of the prison and no prisoner confined therein shall be a juror. There is a similar provision in the Schedule to the English Prisoners' Act (28 & 29 Vic. c. 126), clause 48.

As to a Coroner's rights, we have added three clauses (33, 35, 36), one providing for repaying his disbursements for fees to medical witnesses, hire of

rooms for the jury, and the like; another exempting him from serving on juries, and a third privileging him from arrest while engaged in the discharge of his official duty.

We have omitted the clause corresponding with Act XII of 1867, section 12, as this will more fitly be placed in the Prisoners' Bill now before the Council.

We have omitted, as unnecessary, the elaborate specification of the informalities in case of which the inquisition may be amended by a Judge of the High Court. For variances between the statements in the inquisition and the evidence, Act XVIII of 1862 (sections 1 and 57) appears to provide sufficiently.

We recommend that the Bill thus amended should, before being passed, be published with this report in the *Gazette of India*, that it be sent to the Governments of Madras, Bombay and Bengal, and that the opinions of those Governments, of the High Courts at the Presidency towns of the Advocates General and of the Coroners be obtained on its provisions.

J. F. STEPHEN.

F. R. COCKERELL.

SIMLA;

The 17th September 1870.

WHITLEY STOKES,

Secretary to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

No. 24 of 1870.

# THE INDIAN REGISTRATION BILL, 1870.

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*A Bill for the Registration of Assurances.*

Whereas it is expedient to consolidate and amend the laws relating to the registration of assurances and other instruments; It is hereby enacted as follows:—

## PART I.

*Preliminary.*

Short title. 1. This Act may be called "The Indian Registration Act, 1870."

Local extent. It extends to the whole of British India except the territories administered by the Chief Commissioner of Oudh;

Commencement. And it shall come into force on the first day of January 1871.

Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context,

"Assurance" includes any instrument not testamentary purporting to deal with any interest in, or charge upon, immoveable property:

"Lease" includes a counterpart, a kabūliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a pattā or muchalkā, as respectively defined in section three of Act No. VIII of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency:

"Bond" denotes any instrument by which one person (the obligor) binds himself absolutely or conditionally to pay money to another person (the obligee):

"Bill of exchange." "Bill of Exchange" includes a hundi:

"Signature." "Signed." "Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable Property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass:

"Moveable Property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Representative" includes the guardian of an infant and the Committee or other legal curator of a lunatic or idiot:

"Addition" means the place of residence, and the profession, trade, rank, title or caste (if any) of a person described, and, in the case of a Native, his father's name:

"District Court" includes the High Court in its ordinary original civil jurisdiction: "Civil Court" does not include a Court for the relief of insolvent debtors:

"General Registry Office." "General Registry Office" includes a Branch General Registry Office:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

3. Act No. XXII of 1864, sections ten and forty-five, Act No. XX of 1866, and Act No. XXVII of 1868 are hereby repealed.

All appointments, rules and orders made, and all offices established, under any of the said Acts shall be deemed to have been made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of January 1871, to any enactment hereby repealed, shall be read as if made to this Act.

## PART II.

*Of the Registration Establishment.*

4. The Local Government shall establish within the territories under such Government, at such place as it thinks fit, an office to be called the General Registry Office, and shall appoint an officer to the charge of such office, who shall be the Registrar General of the territories for which he is appointed.

The Local Government may also, with the previous sanction of the Governor General of India in Council, establish a Branch General Registry Office, and appoint a Branch Registrar General; and every act done by or before any branch Registrar General so appointed, shall have the same effect as if done by or before a Registrar General:



provided that such branch Registrar General shall not exercise the power to frame rules hereinafter conferred on the Registrar General.

Any Registrar General or branch Registrar General may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Districts and Sub-Districts shall form Districts and Sub-Districts, and shall prescribe and from time to time may alter the limits of such Districts and Sub-Districts.

A Sub-District may be conterminous with a District, or may be situate partly in one District and partly in another.

The Districts and Sub-Districts formed under this section, together with the limits thereof and every alteration of such limits, shall be notified by the Local Government in the official *Gazette* immediately after every such formation or alteration.

Every such alteration shall take effect on such day after the date of the notification as shall be mentioned therein.

6. The Local Government shall establish in every District an office to be styled the Registry Office, and in every Sub-District an office to be styled the Sub-Registry Office.

7. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

8. The Local Government may declare any Military Cantonment to be a Sub-District for the purposes of this Act.

The Cantonment Magistrate of any Cantonment so declared to be a Sub-District shall be the Sub-Registrar thereof.

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District for the purposes of this Act, he shall also declare what authorities shall be deemed to be Registrar of the District and Registrar General, respectively, with reference to such Cantonment and the Sub-Registrar thereof.

9. During the absence on duty of the Registrar General, or branch Registrar General, from the place where the General Registry Office is established, he may appoint the Registrar of such place, or, with the previous sanction of the Local Government, such other person as he thinks fit, to perform the duties of the Registrar General, except those mentioned in sections eighty and eighty-three.

A Registrar so appointed shall perform such duties in addition to his own duties as Registrar.

During such absence, the Registrar or other person so appointed as aforesaid, shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may

use the seal of the Registrar General or Branch Registrar General, as the case may be.

10. In case of the absence from his District, or of a vacancy occurring in the office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General appoints in this behalf, or, in default of such appointment, the Judge of the District Court, or, when there are more District Courts than one, the Judge of such of the said Courts as the Local Government appoints, shall, during such absence or vacancy, be the Registrar.

In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the office of any such Registrar, the Registrar General may appoint any person whom he thinks proper to conduct the duties of such office.

11. In case of the absence of any Registrar from his office on duty in his District, he may appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections seventy-nine and eighty-three.

12. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the office of any Sub-Registrar, any person whom the Registrar of the District appoints in this behalf shall, during such absence or vacancy, be Sub-Registrar.

13. All appointments made under section nine, ten, eleven or twelve, shall be reported to the Local Government by the Registrar General or branch Registrar General, as the case may be.

Such report shall be either special or general, as the Local Government directs; and the Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. The Local Government may, with the previous sanction of the Governor General of India in Council, assign such salaries as such Government from time to time deems proper, to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees, and partly by salaries.

The Local Government may also, with the like sanction, allow such establishments for the several Registration Offices as are necessary for the purposes of this Act.

15. The Registrar General, branch Registrar General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of

the Registrar General (or of the branch Registrar General, or of the Registrar, or of the Sub-Registrar) of

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Registrar General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box.

### PART III.

#### *Of Registrable Documents.*

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, the said Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or shall come into force (that is to say),—

(1) Instruments of gift of immoveable property:

(2) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest, or charge, whether vested or contingent, of the value of one hundred rupees and upwards, to, in or on immoveable property:

(3) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(4) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

The former part of this section does not apply to any composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any debenture issued by any such Company:

And, so far only as regards the territories respectively under the government of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Local Government may, by order published in the official *Gazette*, exempt from the operation of the former part of this section any leases of immoveable property, executed in any particular District, or part of a District, the terms granted by which do not exceed two years and the annual rents reserved by which do not exceed fifty rupees.

(5) Authorities to adopt a son executed after this Act comes into force shall also be registered.

18. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest or charge, whether vested or contingent, of a value less than one hundred rupees to, in or on immoveable property:

(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(3) Leases of immoveable property for any term not exceeding one year, and the pattás and mu-chalkás referred to in section two:

(4) Awards relating to immoveable property:

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, interest or charge to, in or on moveable property:

(6) Wills not purporting to confer an authority to adopt a son:

(7) Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

20. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration; and the officer registering such document, at the time of registering the same, shall make a note in the register of such interlineation, blank, erasure or alteration.

21. (a.) No document not testamentary relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b.) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by



their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c.) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Sub-Districts, by such number of true copies of the map or plan as are equal to the number of such Sub-Districts, and, in case the property is also situate in several Districts, by such further number of true copies of the map or plan as is equal to the number of such Districts.

22. Failure to comply with the provisions contained in clause (b) of section twenty-one shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.

##### *Of the Time of Presentation.*

23. Subject to the provision contained in section twenty-five, no document of the kinds mentioned in section seventeen, clauses 1, 2, 3 and 4, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

24. Subject to the provision contained in section twenty-five, no document of any of the kinds mentioned in section eighteen (other than a will), shall be accepted for registration, unless presented for that purpose to the proper officer within two months from the date of its execution:

Provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

*Explanation.*—The date of execution of a document means the day on which it purports to have been executed.

25. If owing to urgent necessity or unavoidable accident, any document is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Whenever the last day of any period hereinbefore provided for the presentation of any document falls on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

27. A will or an authority to adopt a son may at any time be presented for registration or deposited in manner hereinafter provided.

28. Nothing in this Act shall alter the time within which any certificate or other document must be registered under the provisions of any Act of the Parliament of the United Kingdom of Great Britain and Ireland.

#### PART V.

##### *Of the Place of Registration.*

29. Save as in this Part otherwise provided, every document mentioned in section seventeen, clauses 1, 2, 3 and 4, and section eighteen, clauses 1, 2, 3 and 4, shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

30. Every document other than a document referred to in section twenty-nine, may be presented for registration in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

31. The Registrar General may in his discretion receive and register any document referred to in section twenty-nine, without regard to the situation in any part of British India of the property to which the document relates.

32. Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

The Registrar of a District shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

33. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public office of the officer whose duty it shall be to register the same; but any such officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring

to deposit a will or authority to adopt a son, and register or accept for registration or deposit such document, will or authority.

Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

#### PART VI.

##### *Of the Presentation of Instruments for Registration.*

**34.** Subject to the provisions of section thirty-three, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office,

by some person executing or claiming under the same,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

**35.** For the purposes of section thirty-four, the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power of attorney resides in any part of British India other than Oude, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides :

(b) if the principal at the time aforesaid resides in Oude, a power of attorney executed before and authenticated by the Deputy Commissioner within the local limits of whose jurisdiction the principal resides :

(c) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or court hereinbefore mentioned in that behalf :

Provided that the following persons shall not be required to attend at the office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing any such power of attorney as is mentioned in clauses (a) and (b) of this section :—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

persons who are in jail under civil or criminal process ; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that

the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

**36.** Subject to the provisions contained in this section and in sections seventy-six, eighty, eighty-four and eighty-nine, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution ;

or, if the person executing the document is dead, and his representative, assign or agent does not appear before the registering officer, but such officer is nevertheless satisfied of the fact of execution,

the registering officer shall register the document as directed in section sixty-eight.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under section thirty-seven, present in his office.

If all or any of the persons by whom the document purports to be executed deny its execution, or if any such person appears to be a minor, an idiot, or a lunatic, the registering officer shall refuse to register the document.

#### PART VII.

##### *Of the enforcement of attendance of executants and witnesses.*

**37.** If any person presenting any document for registration desires the attendance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such revenue or civil court as the Local Government directs in this behalf to issue and serve a summons requiring him to attend at the registry office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named therein.



38. The Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose attendance is so required.

Revenue officer to issue and cause service of summons.

39. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to attend at the registry office,

Persons exempt from attendance at registry office.

a person in jail under civil or criminal process, and persons exempt by law from personal appearance in court, and who would but for the provision next hereinafter contained be required to attend in person at the registry office, shall not be required so to attend.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

40. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before civil courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission, issued, and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses in this Act.

#### PART VIII.

##### *Of registering memoranda of decrees and orders affecting immoveable property.*

41. When any civil or revenue court by a decree or order declares any document relating to immoveable property, which has been registered under this Act or any Act hereby repealed, to be invalid,

Memorandum of decree affecting registered document relating to immoveable property.

or when any civil or revenue court passes a decree or order affecting any such document, and such last-mentioned decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge of the value of one hundred rupees and upwards under such document to, in or on the immoveable property to which it relates,

the Court, on the application of the party in whose favour the decree or order is made, shall cause a memorandum thereof to be prepared, and the Judge or presiding officer shall sign such memorandum and deliver it to the said party,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar within whose District the document was originally registered.

Every such memorandum shall be in the form set forth in the first part of the first schedule hereto annexed.

42. When any civil or revenue court by a decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge, of the value of one hundred

Memorandum of decree affecting immoveable property.

rupees or upwards, of any person to, in or on any immoveable property situate in any part of British India except Oudh,

the presiding officer of the Court, on the application of the party in whose favour the decree or order is made, shall prepare and sign and deliver to him a memorandum thereof,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar, or to every Registrar, within whose District the whole or any part of such immoveable property is situate.

Every such memorandum shall, so far as may be practicable, describe the property in manner required by section twenty-one, and shall be in the form set forth in the second part of the first Schedule hereto annexed.

43. When any decree or order mentioned in section forty-one or section forty-two is made in favour of more parties than one, the said application may be made by any one of such parties, and the Court shall deliver the memorandum to him.

Decrees in favour of several parties.

No decree or order mentioned in section forty-one or section forty-two shall be of any force, unless and until a memorandum thereof has been registered in manner provided by this Act.

Decrees mentioned in section 41 or section 42, not to be of any force until memoranda registered.

#### PART IX.

##### *Of the Presentation and Deposit of Wills and Authorities to adopt.*

44. The testator or any person claiming as executor or otherwise under a will, may present to any Sub-Registrar for registration such will,

Persons entitled to present for registration wills and authorities to adopt.

and the donor or donee of any authority to adopt, or the adoptive son, may present to any Sub-Registrar for registration such authority.

Any person entitled to present for registration any such will or authority may, either personally or by a duly authorized agent, present to a Sub-Registrar such will or authority open, and any testator or donor of such authority may either personally or by duly authorized agent deposit with any Sub-Registrar the will or authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

45. If the depositor of any such sealed cover wishes to withdraw the same, he may apply to the Registrar to whom such cover shall have been sent under section seventy-four that the cover be delivered to him; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 44.

46. If on the death of the depositor of a sealed cover under section forty-four, application be made to the Registrar to whom such cover shall have been so sent to open the same, the

Proceedings on death of depositor.

Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy at the applicant's expense the contents thereof in his Book No. 4.

When such copy has been made, the Registrar shall re-deposit the original will or authority.

### PART X.

#### *Of the effects of Registration and Non-Registration.*

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All documents, not testamentary, duly registered under this Act and relating to any immoveable property, shall take effect against any oral agreement or declaration relating to such property, whether possession thereof has or has not been delivered.

49. All documents, not testamentary, duly registered under this Act, and relating to any moveable property, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

50. No instrument required by section seven-teen to be registered, and no part of any such instrument, shall be received in evidence for any purpose whatever in any civil proceeding in any court,

or shall be acted on by any public servant as defined in the Indian Penal Code,

or shall affect any property comprised therein,

unless the instrument has been registered in accordance with the provisions of this Act.

*Illustration 1.*—A executes a bond for one thousand rupees and, by the same document, mortgages certain land worth more than one hundred rupees by way of collateral security for the re-payment of the one thousand rupees. The document is not receivable in evidence for the purpose of enforcing against A personally the re-payment of the money secured thereby.

*Illustration 2.*—A executes a conveyance of land worth more than one hundred rupees. The conveyance recites the receipt of the purchase-money. The recital cannot be received in evidence except in a criminal proceeding.

51. Every instrument of the kinds mentioned in clauses 1, 2 and 3 of section eighteen, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered instrument executed after this Act comes into force and relating to the same property, whether such other

instrument be of the same nature as the registered instrument or not.

#### *Special Registration of Bonds, Bills of Exchange, and Promissory Notes.*

52. Whenever the obligor and obligee of a bond,

Record of agreement or the drawer, acceptor, or an indorser and the payee or an indorsee of a bill of exchange, that amount secured by a bond may be recovered summarily.

or the maker or an indorser and the payee or an indorsee of a promissory note,

agree that, in the event of the obligation resulting from the bond, bill or note not being duly satisfied, the amount secured thereby may be recovered in a summary way, and, at the time of registering the bond, bill or note, apply to the registering officer to record the said agreement, the registering officer, after making such enquiries as he thinks proper, shall record such agreement at the foot of the endorsement and certificate required by sections sixty-six and sixty-eight,

and such record shall be signed by him and by the obligor, drawer, acceptor, maker or indorser, or by some person expressly authorised in this behalf by a power of attorney from such obligor, drawer, acceptor, maker or indorser,

and shall be copied into the Register Book No. 1 or No. 6, as the case may be,

and shall be *prima facie* evidence of the said agreement.

53. Within one year from the date on which the amount becomes payable,

or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable,

the said obligee, payee or indorsee may present a petition to any court which would have had jurisdiction to try a regular suit on such bond, bill or note for the amount secured thereby, or for the instalment sought to be recovered.

The petition may be amended by permission of the court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

On production in court of the bond, bill or note and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the court.

Such decree may be enforced forthwith against the obligor, drawer, acceptor, maker or indorser signing as aforesaid, under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

54. In any proceedings under this Part of this Act, the court may order the bond, bill, or note sought to be deposited upon to be forthwith deposited with an officer of the court, and may



further order that all proceedings be stayed until the petitioner has given security for costs thereof.

55. After decree, the court may under special

Court may, under special circumstances, set aside decree.

circumstances set aside the decree, and if necessary stay or set aside execution; but there shall be no appeal against any decree or order made under section fifty-three, section fifty-four, or this section.

#### PART XI.

##### *Of the duties and powers of Registering Officers.*

##### *(A.) As to the Register Books and Indexes.*

Register Books to be kept in the several offices.

56. The following Books shall be kept in the several offices hereinafter named (that is to say),—

##### *In all Registry Offices—*

Book 1, "Register of instruments relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

##### *In the Offices of Sub-Registrars—*

Book 3, "Register of deposits of wills and authorities to adopt;" and

##### *In the Offices of Registrars and of Sub-Registrars—*

Book 4, "Register of wills and authorities to adopt;"

Book 5, "Register of Decrees and Orders;"

Book 6, "Miscellaneous Register."

In Book 1 shall be entered all documents registered under section seventeen and the first four clauses of section eighteen, and all other documents mentioned in section eighteen, clause 7, which relate to immoveable property.

In Book 5 shall be filed all memoranda of decrees and orders sent under section forty-two.

In Book 6 shall be entered all documents registered under clauses 5 and 7 of section eighteen, and not entered in Book 1 or in Book 5.

57. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section seventy, every document admitted to registration shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its presentation.

58. All entries in each book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

59. In every office in which any of the books next hereinafter mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, in alphabetical order and immediately after the document to which it relates has been copied by or by order of the registering officer.

60. Two such indexes shall be made in all registry offices, and shall be named, respectively, Index No. I. and Index No. II.

Index No. I. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book No. 5.

Index No. II. shall contain such particulars mentioned in section twenty-one, relating to every such document, as the Registrar General from time to time directs in that behalf.

A third index to be called Index No. III. shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 6.

Indexes Nos. I., II. and III. shall also contain such other particulars, and shall be prepared in such form, as the Registrar General from time to time directs.

61. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar General from time to time directs, two copies of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I. and II.

62. Every Registrar receiving such two copies shall in every month file one of such copies in his Indexes Nos. I. and II., respectively; and, at such intervals as the Registrar General from time to time directs, shall send the other of such copies to the general registry office.

Every Registrar shall also send to the general registry office a copy of all the entries which he shall have made in his Indexes Nos. I. and II., respectively, during the last of such intervals.

63. On the receipt in the general registry office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I. and II., respectively, kept in such office.

64. If the Registrar General so directs, an alphabetical index shall be prepared in every registration office at the end of each year of all entries made during the past year in the current indexes in such office; and in every

office in which Book No. 2 is kept, an alphabetical index shall be prepared at the end of each year to the entries made in such book during the past year.

65. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2 and 5 and the indexes relating to such books shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section seventy, copies of entries in such books shall be given to all persons applying for such copies.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

Subject to the same provisions, copies of entries in Books Nos. 3, 4 and 6 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer.

Such copies shall be signed and sealed by the registering officer, and shall be *prima facie* evidence of the contents of the original documents.

(B.)—As to the procedure on admitting to registration.

66. On every document admitted to registration, there shall be endorsed from time to time the following particulars (that is to say),—

Particulars to be endorsed on documents admitted to registration.

(1) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document declines to endorse the same, the registering officer shall refuse to register it.

67. The registering officer shall affix the date and his signature to all endorsements mentioned in the last preceding section, relating to the same document and made in his presence on the same day.

Such endorsements to be dated and signed by registering officer.

68. After such of the provisions of sections thirty-six, sixty-six, and sixty-seven as apply to the case have been complied with, the registering officer shall endorse on the document a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

Such certificate shall be signed, sealed and dated by the registering officer and shall then be *prima facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section sixty-seven have occurred as therein mentioned.

69. The endorsements and certificate mentioned in sections sixty-seven and sixty-eight shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section twenty-one shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section fifty-seven.

70. When a document is presented for registration under section nineteen, the translation shall be transcribed in the register of instruments of the nature of the original, and, together with the copy referred to in section nineteen, shall be filed in the registry office.

Procedure on presentation of a document in a language unknown to the registering officer.

The endorsements and certificate respectively mentioned in sections sixty-seven and sixty-eight shall be made on the original, and for the purpose of making the other copies required by sections seventy-two, seventy-three, seventy-four, and seventy-eight, the translation shall be treated as if it were the original.

71. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Power to administer oaths.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Record of substance of statements.

Every such note so signed shall be admissible as *prima facie* evidence of the facts therein stated.

(C.)—Special duties of Sub-Registrar.

72. Every Sub-Registrar on registering a document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in section twenty-one, to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.



**73.** Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in section twenty-one as may be necessary, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate.

The Registrar on receiving the same shall enter in his Book No. 1 the copy of the document and one of the copies of the map or plan (if any), and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

**74.** A will and an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any person entitled to present the same, other than the testator or donor, shall be registered if the Sub-Registrar is satisfied

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under section forty-four, entitled to present the same.

**75.** On receiving for deposit a sealed cover under section forty-four, the Sub-Registrar, if satisfied that the depositor is the testator or donor, as the case may be, or his duly authorized agent, shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.

The Sub-Registrar shall then send the cover to the Registrar to whom he is subordinate, and the Registrar shall, on receipt thereof, retain the sealed cover in his fire-proof box.

Nothing in this section or in section forty-six shall be deemed to affect the provisions of the Indian Succession Act, section two hundred and fifty-nine, or the power of any Court by order to compel the production of any will for the purposes of granting probate or letters of administration with the will annexed. But whenever any such order is made, the Registrar shall copy the will in his Book No. 4 and make a note on such copy that the original has been removed into court in pursuance of the order aforesaid.

*(D.)—Special duties of Registrar.*

**76.** On registering any instrument not testamentary relating to immoveable property under section thirty-two, the Registrar shall

forward a copy of such instrument, together with a copy of the map or plan (if any) mentioned in section twenty-one, to each Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate.

He shall also forward a copy of such instrument, together with such number of copies of the map or plan if (any) mentioned in section twenty-one, as may be necessary, to any other Registrar in whose District any part of such property is situate.

Every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them, respectively, in section seventy-three.

**77.** Every memorandum received under section forty-one shall be copied in the margin of the part of the book in which the document affected by such memorandum is registered; and for this purpose the Registrar shall send a copy of such memorandum to every Sub-Registrar in his District in whose office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his office.

When any such memorandum relates to immoveable property situate in more Districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose District any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this section.

Every memorandum received by a Registrar under section forty-two shall be filed by him in his Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

*(E.)—Of the Registrar General.*

**78.** On any instrument being registered in the general registry office under section thirty-one, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate.

The Registrar receiving such copy shall follow the procedure prescribed for him in section seventy-three.

*(F.)—Of the controlling powers of Registrars and Registrars General.*

**79.** Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose District the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect

of the rectification of any error regarding the Book or the office in which any document shall have been registered.

**80.** The Registrar General shall exercise a general superintendence over all the registry offices in the territories under the Local Government, and shall have power from time to time to frame rules consistent with this Act—

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

declaring the languages in which and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon;

declaring what territorial divisions shall be recognized under section twenty-one;

regulating the amount of penalties imposed under section twenty-four;

regulating the exercise of the discretion reposed in the registering officer by sections fifty-two and seventy-one;

declaring the particulars to be contained in Indexes Nos. I, II and III, respectively;

declaring the holidays that shall be observed in the registry offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars under him.

The rules so framed shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official *Gazette*, and shall then have the same force as if they were inserted in this Act.

**81.** No order shall be made to cancel the registration of any document under this Act, or under any Act hereby repealed.

## PART XII.

### *Of refusal to register.*

**82.** Every registering officer refusing to register a document, unless because he has a discretion to refuse to accept it for registration, or unless because the property to which it relates is not situate within his District or Sub-District,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

**83.** An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order:

Provided that, whenever the Registrar has himself as Sub-Registrar passed the order appealed against, the appeal shall lie to the Registrar General.

Any Registrar or Registrar General refusing to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, and on his furnishing a stamped paper of the value of eight annas, shall, without unnecessary delay, give him a copy of the reasons so recorded.

**84.** If a Registrar or Registrar General makes under section eighty-two an order of refusal to register any document referred to in section twenty-nine,

or if he has made a like order under section eighty-three of Act No. XX of 1866,

or if on appeal under section eighty-three he makes an order of refusal to direct the registration of such document,

any person claiming thereunder, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply by petition to the District Court, in order to establish his right to have the document registered.

**85.** The petition shall be in the form contained in the second Schedule to this Act, or as near thereto as circumstances permit, and shall be accompanied by copies of the reasons recorded under sections eighty-two and eighty-three; and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of complaints, and the petition may be amended by permission of the Court.

The document shall be admissible in evidence on the presentation and hearing of the petition, anything hereinbefore contained to the contrary notwithstanding.

**86.** The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the Court thinks fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.



87. On the day so fixed as aforesaid, the Court may summon and enforce the attendance of witnesses and compel them to give evidence, and if it finds that the document has been executed, and that the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration, the court, unless satisfied that the order next hereinafter mentioned would work injustice, shall order such Registrar or Registrar General to register the document, or to direct its registration in the proper manner,

and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in sections sixty-six, sixty-seven and sixty-eight.

If the document be duly presented for registration within thirty days after the making of such order, the registration pursuant thereto shall take effect as if the document has been registered when it was duly presented for registration to the officer so refusing as aforesaid:

Provided that when the officer presiding over the District Court has himself as registering officer made any order complained of under this section, the petition shall, within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

No appeal lies from any order made under this section.

### PART XIII.

#### *Of the fees for registration, searches and copies.*

Fees for registration, searches and copies to be fixed by Local Government.

88. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration;

And of extra or additional fees payable—

for every registration by a Registrar General under section thirty-one, or by a Registrar under section thirty-two:

for special registration under section fifty-two:

for the issue of commissions:

for filing translations:

for attending at private residences:

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

The Local Government may from time to time, subject to the like approval, alter such table.

A table of the fees so payable shall be published in the official *Gazette*, and a copy thereof in

English and the Vernacular language of the District shall be exposed to public view in every registration office.

89. All fees for the registration of documents under this Act shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable under section fourteen to officers who are paid wholly or in part by fees), and all penalties received under section twenty-four, shall be remitted to the treasury of the District or Sub-District, or to such other treasury as the Local Government from time to time directs, and shall be credited to Government.

### PART XIV.

#### *Penalties.*

90. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under the provisions of this Act, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

91. Whoever intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

92. Whoever intentionally delivers to a registering officer in any proceeding under section nineteen or twenty-one a false copy or translation of a document, or a false copy of a map or plan, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

93. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

94. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

95. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be instituted by the Registrar General,

the Branch Registrar General, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

All prosecutions under this Act shall be instituted and carried out before a person exercising the powers of a Magistrate or Subordinate Magistrate of the first class; and all fines imposed under this Act may be recovered in the manner prescribed in section sixty-one of the Code of Criminal Procedure.

**96.** Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section two hundred and twenty-eight of the said Code, the words "judicial proceeding" shall include any proceeding under this Act.

#### PART XV.

##### Miscellaneous.

**97.** No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not to be liable for anything bona fide done or refused in his official capacity.

**98.** Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing done by registering officer to be invalidated by defect in his appointment or procedure.

**99.** Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section sixty-six.

Registration of instruments executed by Government officers or certain public functionaries.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government or to such officer of Government, Administrator General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

**100.** Notwithstanding anything herein contained, every document of the kinds mentioned in sections seventeen and eighteen, executed in British Burma before the first day of January 1871, and every jama sanad executed in Coorg before that date, shall be accepted for registration, if duly presented for registration within twelve months from such date.

Time for registering documents executed in Burma and Coorg before 1st January 1871.

##### Exemptions from Act.

**101.** Nothing contained in this Act or any Act hereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

Exemption of certain documents executed by or in favour of Government.

(a.) Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(b.) Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, other than waste land, and which form part of the record of such survey.

(c.) Documents which, under any law for the time being in force, are filed annually by patwaris or other officers charged with the preparation of village records.

(d.) Sanads, inam title-deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land, in reward for special services.

But all such documents and maps shall, for the purposes of sections forty-eight and fifty, be deemed to have been and to be registered in accordance with the provisions of this Act.

**102.** Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section one hundred and one, clauses a, b and c, shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Inspection and copies of such documents.

**103.** A copy of every document mentioned in section one hundred and one, clause d, and executed on or after the first day of January 1871 shall, as soon as may be after its execution, be sent by the Local Government to the Registrar or to every Registrar within whose District the whole or any part of the immoveable property comprised in such document is situate, and shall be filed by him in his Book 1.

Copies of sanads to be filed by Registrar.

##### Madras Inam title-deeds.

**104.** Nothing contained in this Act, or in any Act hereby repealed, shall be deemed to require, or to have required, the registration of any title-deed for inam lands issued by the Inam Commissioner in the Presidency of Fort St. George.

Exemption of Madras inam title-deeds.

The provisions of section one hundred and three shall not apply, and the provisions of section three of Act No. XXVII of 1868 shall be deemed not to have applied, to any such title deed.

Subject to such rules as the Local Government from time to time prescribes in this behalf, all the District Registers of inams kept under the rules for the adjudication and settlement of inam lands in the said Presidency sanctioned by the Local Government and published in the *Fort St. George Gazette* dated the fourth day of October 1859, shall be open to the inspection of any person applying to inspect the same, and subject as aforesaid, copies of the said registers shall be given to all persons applying for such copies.



## FIRST SCHEDULE.

## PART I.

Serial No. of registered instrument with Page, No. and Volume of Register in which it has been entered.	Names of parties to and No. of the suit, and whether an original or appealed suit.	Description of the immoveable property referred to in the instrument.	Effect of the decree or order on the instrument.	Date on which decree or order was passed.	Name and official designation of judge or officer by whom the decree or order was passed.

(Signed) A. B.

## PART II.

Names of parties to, and No. of the suit, and whether an original or appealed suit.	Description of the immoveable property affected by the decree or order.	Effect of the decree or order on the said property.	Date on which decree or order was passed.	Name and official designation of judge or officer by whom the decree or order was made.

(Signed) A. B.

## SECOND SCHEDULE.

*Form of petition under section 84.*

Stamp  
eight  
annas.

To the Judge of the District Court [or To the Deputy Commissioner] of

The            day of            18   .

The petition of A. B. of

Sheweth—

1. That by an assurance dated the            day of            and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such assurance was executed by the said C. D. on the            day of            18   .

3. That the property to which such assurance relates is situate in the Sub-District of the Sub-Registrar of            and in the District of           

4. That on the            day of            your petitioner presented the said assurance for registration under "The Indian Registration Act, 1870," in the office of the said Sub-Registrar, and on such presentation the said C. D. appeared personally before the said Sub-Registrar, and admitted the execution of the said assurance [or and falsely denied the execution of the said assurance].

5. That the said C. D. is personally known to the said Sub-Registrar [or adduced evidence that he was the person he represented himself to be, or that your petitioner adduced evidence that the said C. D. was the person he represented himself to be].

6. That the said Sub-Registrar thereupon made an order of refusal, dated the            day of            18   , to register the said assurance and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

7. That your petitioner on the            day of            appealed to the Registrar of            against such order.

8. That the said Registrar thereupon made an order of refusal, dated the            day of            to direct the registration of the said assurance, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient [or that your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so].

Your petitioner, therefore, prays that your Honour will order the said Sub-Registrar to register the said assurance.

A. B.

*Form of Verification.*

I, A B, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

## STATEMENT OF OBJECTS AND REASONS.

The Indian Registration Act has now been in force for nearly five years. It has gradually been extended to the whole of British India, except Oudh and Burma, and it has attained its two great objects,—discouraging forgery and false evidence, and creating a trustworthy record of title to immoveable property.

In 1868 it was found expedient to exclude from its operation certain instruments executed by, or in favour of, Government, and the Government of Madras has recently applied for similar legislation as regards inam title-deeds.

To consolidate and amend the law on the subject is obviously preferable to adding a fourth Act to the three in which that law is now contained. The present Bill accordingly repeals and re-enacts Acts XX of 1866 and XXVII of 1868. It incorporates the provisions as to registration contained in the Military Cantonments Act No. XXII of 1864, sections 10 and 45. It extends the system of registration to the whole of British India, except Oudh. It renders written authorities to adopt compulsorily registrable. It enables Sub-Registrars to register wills and authorities to adopt and to receive deposits of such documents. It also enables Sub-Registrars to institute prosecutions without the Registrar's sanction; and it excludes from its operation Madras inam title-deeds.

Besides these substantial changes, the Bill effects various minor amendments suggested by the practical experience gained in working the Act of 1866. These may be shortly stated as follows:—

With reference to Mr. Justice Norman's decision in *Jalu Namdar v. Beicha Namdar*, 3 Ben. L. R., A. C. J. 394, "moveable property" has been defined so as to include juice in trees. And "addition" has been made to include, in the case of a Native, his father's name.

In section 10, provision has been made for cases where there are more District Courts than one.

Section 17 has been expressly made applicable to leases from year to year, and to those leases (common in Bengal) which merely reserve a yearly rent.

In *Nardhana Swami's Pillai's case*, 4 Mad. H. C. Rep. 91, Sir Adam Bittleston ruled that the provisions in Act XX of 1866, section 21, as to the description of houses and land, are merely directory. The Bill, section 22, embodies this ruling, which is clearly in accordance with the intention of the Act.

In section 32 the words 'including a Presidency town' have been omitted so as to render it possible for any Local Government to amalgamate in the Mofussil a Registry and a Sub-Registry Office.

It has been held by the Advocate General of Bengal that section 36 of Act XX of 1866, requires the persons executing a document to appear simultaneously before the Registering Officer. Such requirement is obviously inconvenient and unnecessary. The corresponding section of the Bill expressly provides that such appearances, if within the time allowed for presentation, may be either simultaneous or at different times.



In the same section the Bill expressly authorizes the Registering Officer to refuse to register where any person executing the document denies its execution, or where an executant appears to be a minor, an idiot, or a lunatic. This is in accordance with the views of the Advocate General of Madras.

Section 37 empowers the Registering Officer to require the Revenue Officer in whose jurisdiction any executant or witness, whose attendance is desired may be, to issue and to serve a summons requiring him to attend at the Registration Office. Some difficulty has been felt in Madras and elsewhere as to the Revenue Officer thus indicated, and the section has been altered by substituting for "the Revenue Officer" the words "such Revenue or Civil Court as the Local Government directs in this behalf."

In working Part VIII of Act XX of 1866, (as to sending to the Registry Office memoranda of decrees and orders affecting immoveable property) difficulty has been found in recovering the costs of registration. The Bill accordingly provides that the party in whose favour the decree or order has been made, shall himself present and pay for registering the memorandum, and that no such decree or order shall be of any force until a memorandum thereof has been registered. Forms of memoranda are given in the first Schedule. They must be registered within four months of the date of the decree or order, and the operation of the Part is confined to cases when the subject matter is of the value of Rs. 100 or upwards.

Section 48 of that Act provides that registered instruments relating to any moveable or immoveable property shall take effect against oral agreements relating thereto. The effect of this provision is (it has been argued) that a purchaser even of any trivial article bought in a shop and handed over the counter, has against any subsequent registered purchaser a defective title. The Bill accordingly by an additional section (49) precludes the operation of the former clause as regards moveables, where the agreement has been accompanied or followed by delivery of possession.

Certain decisions of the High Court at Fort William have made serious inroads on section 49 of the same Act, which declares that no instrument required to be registered "shall be received in evidence in any civil proceeding in any Court." The High Court has decided that an unregistered document requiring registration as affecting an interest in land is admissible in evidence in a civil proceeding for any purpose for which registration is unnecessary. The section has been re-drawn, so as to preclude, it is hoped, in future, a construction so opposed to the intention of the Legislature.

Section 51 of Act XX of 1866 prescribes the period of limitation for certain suits under a registered contract. The section has been omitted as it will find a fitter place in the Limitation Bill now being prepared in the Legislative Department.

Words have been introduced into section 53, showing clearly that the summary remedy provided on a specially registered bond is available only as against the person signing the agreement mentioned in section 52.

Section 57 has been altered so as to require the copying of such documents only as are *admitted* to registration.

The note taken by the Registering Officer under section 71, has been made admissible as *prima facie* evidence of the facts therein stated.

As regards the procedure on the deposit of wills, the Bill provides, with reference to the case of *Nagindas*, 3 Bom. H. C. Rep. 135, decided by the present Chief Justice of the High Court at Bombay, that nothing in the Registration Act shall affect the power of any Court by order to compel the production of a will for the purposes of probate. Whenever any such order is made, the Registrar will copy the will in his book No. 4, and make a note on such copy that the original has been removed in pursuance of the order.

Section 84, as to the procedure when a Registrar refuses to register or to direct registration, has been made clearer. The Court has been expressly empowered to summon witnesses and compel them to give evidence; and the discretion reposed in it as to directing registration has been limited in accordance with the views of Sir Adam Bittleston (4 Mad. H. C. Rep. 97). Appeals from orders under this section have been expressly precluded (3 Bom. H. C. Rep. A. C. J. 104).

Provision has been made for admitting to registration, within twelve months after the new Act comes into force, of jama sanads executed in Coorg.

Lastly, the sections relating to penalties have been placed in a separate Part, and the wording of the Bill has been carefully settled with reference to all the reported decisions of the High Courts on Acts XVI of 1864 and XX of 1866.

F. R. COCKERELL.

SIMLA;

The 18th September 1870.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

No. 25 of 1870.

*A Bill to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.*

Whereas it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the governments of the Lieutenant-Governors of the

Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

PART I.—*Preliminary.*

1. This Act may be called "The Bengal Civil Courts Act, 1870."

It extends to the territories for the time being respectively under the governments of the said Lieutenant-Governors except such portions thereof as have been, or may hereafter be, removed by express enactment from the jurisdiction of the High Courts.

And it shall come into force on the passing thereof.

2. The Regulations and Acts mentioned in the first Schedule hereto annexed are repealed to the extent specified in the third column of such Schedule.

PART II.—*Constitution of Civil Courts.*

3. The number of District Judges to be appointed under this Act shall be fixed, and may, from time to time, be altered by the Local Government: Provided that no increase to the present number of District Judges shall be made by such Government without the previous sanction of the Governor General in Council.

4. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may, from time to time, be altered by the Local Government: Provided that no increase of the total number so appointed before the passing of this Act shall be made without the previous sanction of the Governor General in Council.

5. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or when it is necessary to increase the number of Subordinate Judges, the Local Government shall, subject to the provisions of section three, supply such vacancy or appoint such additional Subordinate Judges, as it thinks fit.

6. Whenever the office of a Munsif is vacant, or when it is necessary to increase the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

7. The present Judges of the Zila Courts, Subordinate Judges and Munsifs shall be the first District Judges, Subordinate Judges, and Munsifs under this Act.

8. The Local Government shall have power to fix, and, from time to time, alter the place at which any Court under this Act is to be held.

9. Every District Judge, Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the form in the second Schedule to this Act.

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by a Sub-Judge or Munsif, before the District Judge.

10. Every Court under this Act shall use a seal of such form and dimensions as shall, from time to time, be prescribed by the Local Government.

11. Every District Judge, Subordinate Judge, and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

PART III.—*Ordinary Jurisdiction.*

12. The Local Government shall fix, and may, from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act.

13. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits cognizable by the Civil Courts.

14. The jurisdiction of a Munsif extends to all like suits of which the amount or value in dispute does not exceed one thousand rupees.

15. A regular or summary appeal shall, when such appeal is allowed by law, lie from the decrees and orders of a District Judge to the High Court.

16. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except when the amount or value of the subject-matter of the suit exceeds five thousand rupees, in which case the appeal shall lie to the High Court.

17. Every Court established under this Act shall have power to require a witness, or party to any suit pending in such Court, to take such oath as is prescribed by the law for the time being in force.



18. Where in any suit it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in the case of Muhammadans, and the Hindú law in the case of Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

Where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

19. No District Judge, Subordinate Judge or Munsif shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such officer as aforesaid, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference. The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure.

#### PART IV.—*Special Jurisdiction.*

20. When the number of appeals from the orders of a Subordinate Judge pending before any District Judge requires the aid of additional Judges for the speedy adjudication and decision of such appeals, the Local Government may, upon the recommendation of the High Court, and (so far only as regards the additional expenditure involved in such appointment) subject to the sanction of the Governor General in Council, appoint such additional Judges as may be requisite.

The Additional Judges so appointed shall, previously to entering upon the execution of the duties of their office, make and subscribe the same declaration as is required to be made by the District Judges.

They shall perform any of the duties of a District Judge under Part III, that may be assigned to them, and, in the performance of such duties, shall exercise the same powers and be guided by the same rules as the District Judge.

The present Additional Judges shall be deemed to have been appointed under this Act.

21. The Local Government may invest any Subordinate Judge with the powers of a Munsif under section fourteen, and may define and, from time to time, vary the local limits within which such powers are to be exercised.

22. Every District Judge may, from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals depending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

23. The High Court may, from time to time by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any civil proceedings (not being suits), or any class of such proceedings, specified in such order, and then pending or thereafter instituted, before such District Judge.

All proceedings so transferred shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

24. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees, and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

25. Section fifty-one of Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil Jurisdiction of the High Courts of Judicature), shall be read as if for the words "Principal Sadr Amin," the words "Subordinate Judge" were substituted.

#### PART V.—*Misfeasance.*

26. A District Judge or Additional Judge may, for any misconduct, be suspended or removed by the Local Government.

27. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report the circumstances of the suspension, and the Local Government may direct the dismissal of the Subordinate Judge, or make such other order as the case may require.

28. The High Court may suspend any Munsif or may appoint a Commission for enquiring into his alleged misconduct.
- Suspension of Munsifs by High Court.

The provisions of Act No. XXXVII of 1850 (*for regulating inquiries into the behaviour of public servants*), shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

On receiving the report of the result of such inquiry, the High Court may remove or suspend from office such Munsif, or may reduce him to a lower grade.

29. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.
- Suspension of Munsifs by District Judges.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

#### PART VI.—Ministerial Officers.

30. The Ministerial Officers of the District Courts shall be appointed, and may be removed, suspended, or fined in an amount not exceeding one month's salary, by the Judges of such Courts, whose orders in such matters shall be final.
- Appointment, removal and suspension of Ministerial Officers of District Courts.

31. The Ministerial Officers of the Courts of Subordinate Judges and Munsif shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.
- Appointment, removal and suspension of Ministerial Officers, of Subordinate Judges and Munsifs.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. But every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

32. All fines imposed under this Part may be recovered by deduction from the salary of the offender.
- Recovery of fines.

#### PART VII.—Miscellaneous.

33. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like functions, and shall continue in charge of the office until it is resumed by the District Judge or assumed by an Officer duly appointed thereto.
- Death, incapacity or absence of District Judge.

34. A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office.
- Vacancy in Munsif's office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

35. The general control over all the Civil Courts in any District is vested in the District Judge. He may issue such directions for the guidance of the Subordinate Courts with respect to any matter not provided for by law as he thinks necessary, and the said Courts shall obey such directions.
- Control of Civil Courts in a District.

36. Subject to such orders as may, from time to time, be issued by the Governor General in Council or by the Local Government, the High Courts shall prepare a list of days to be observed in each year as close holidays in such Courts and in the Courts, respectively, subordinate to them, and such list shall be published at the commencement of each year in the local official *Gazette*.
- List of holidays.



## FIRST SCHEDULE.

Number and year.	Title.	Extent of Repeal.
Regulation III, 1793 ...	A Regulation for extending and defining the jurisdiction of the Courts of Dewanny Adalwut, or Courts of Judicature for the trial of civil suits in the first instance, established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
„ IV, 1793 ...	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Courts of Patna, Dacca, and Moorshedabad.	Section fifteen.
„ VIII, 1833 ...	A Regulation for the occasional appointment of additional Judges of the Zillah and City Courts.	The whole.
Act L of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
„ XVI of 1868 ...	An Act to consolidate and amend the law relating to Principal Sadr Amíns, Sadr Amíns, and Munsifs in Bengal, and for other purposes.	The whole.
„ II of 1870 ...	An Act to provide for the appointment of Additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

## SECOND SCHEDULE.

*Form of declaration to be administered to persons appointed to the office of District Judge, Additional Judge, Subordinate Judge, or Munsif.*

I, A B, appointed to the office of \_\_\_\_\_ of \_\_\_\_\_ do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) A B.

District [or Additional or Subordinate] Judge of  
Munsif of \_\_\_\_\_

## STATEMENT OF OBJECTS AND REASONS.

The law relating to the constitution and jurisdiction of the District (or zila) courts in Lower Bengal and the North-Western Provinces is now spread over the following enactments:—

Regulation III of 1793 (Bengal Code).

IV	”	”
VII of 1795	”	”
VIII	”	”
II of 1803	”	”
III	”	”
VIII of 1805	”	”
VIII of 1833	”	”
Act L of 1860.		

The repeal of Regulations VII of 1795, VIII of 1795 (except section ten), II and III of 1803, and VIII of 1805, as enactments purporting only to extend to the North-Western Provinces the provisions of the earlier Regulations of 1793 in regard to the zila courts, has been already proposed in connection with the Bill for defining the local extent of the general Regulations and Acts now before the Council.

In pursuance of the general scheme of consolidation, it has now become necessary to gather together the remaining fragments of the Regulation-law on this subject, and to combine them with the recently consolidated law (Act XVI of

1868) regarding the civil courts subordinate to the zila courts.

A further object of the present Bill is to supply certain omissions of Act XVI of 1868 in regard to the jurisdiction of sub-Judges and Munsifs.

The older Regulations provide that the zila courts shall, in the determination of cases relating to inheritance, marriage, caste, or religious usage, be guided by the Muhammadan law where the parties to the cause are Muhammadans, and by the Hindú law where the parties are Hindús; also, that in cases for which no specific rule exists, the said courts shall act in accordance with equity and good conscience.

The application of these rules was, on the subsequent creation of the Courts of Munsifs, Sadr Amins (now designated Munsifs) and Principal Sadr Amins (now Subordinate Judges) extended to such courts; but the extending provisions were, apparently through inadvertence, included in the wholesale repeals which followed the introduction of the Code of Civil Procedure, and they were not revived when Act XVI of 1868 was enacted.

SIMLA,

The 7th October 1870.

F. R. COCKERELL.

WHITLEY STOKES,

Secy. to the Govt. of India.





# The Gazette of India.

Published by Authority.

SIMLA, SATURDAY, OCTOBER 22, 1870.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making  
Laws and Regulations, or published under Rule 19.

The following Bill was introduced into the Council  
of the Governor General of India for the  
purpose of making Laws and Regulations on  
the 3rd October 1870.

No. 22 of 1870.

*A Bill to consolidate the laws relating to Prisoners  
confined by order of a Court.*

For the purpose of consolidating the laws relat-  
ing to prisoners confined by  
Preamble. order of a Court; It is hereby  
enacted as follows :—

### PART I.—PRELIMINARY.

- |                 |  |
|-----------------|--|
| Short title.    | 1. This Act may be called<br>"The Prisoners' Act, 1870."                 |
| Local extent.   | It extends to the whole of<br>British India.                             |
| Commencement.   | And it shall come into force<br>on the passing thereof.                  |
| Repeal of Acts. | 2. The Acts mentioned in<br>the Schedule hereto annexed<br>are repealed. |

### PART II.—PRISONERS IN THE PRESIDENCY TOWNS.

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|---|
| 3. All writs or warrants for the arrest or ap-<br>prehension of any person, issued<br>or awarded by the High Court<br>in the exercise of its ordinary,<br>Warrants and writs<br>to be directed to<br>Police Officers. |
|---|

extraordinary, or other criminal jurisdiction, shall  
be directed to and executed by any officer of Police  
within the local limits of such jurisdiction.

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|--|
| 4. The Local Government may appoint an officer<br>who shall be called in Calcutta<br>the Superintendent of the Pre-<br>sidency Prisons, and in Madras<br>and Bombay the Superinten-<br>dent of Prisons for the town of Madras or Bombay,<br>as the case may be, and who shall have authority<br>to receive and keep prisoners committed to his<br>custody under the provisions of this Part. |
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- |  |
|--|
| 5. The said prisons shall be<br>the prisons of Calcutta, Madras,<br>and Bombay respectively, |
|--|

and the Superintendents so appointed are hereby  
respectively authorized and required to keep and  
detain all persons duly committed to their custody  
pursuant to the provisions of this Act, or other-  
wise, by any Court, Judge, Justice of the Peace,  
Magistrate of Police, Coroner, or other public  
officer lawfully exercising civil or criminal juris-  
diction according to the exigency of any writ,  
warrant or order by which such person has been  
committed, or until such person is discharged by due  
course of law.

- |  |
|--|
| 6. The said Superintendent shall forthwith<br>after the execution of every such<br>writ, order, or warrant, except<br>warrants of commitment for<br>trial, or after the discharge of<br>the person committed thereby, return such writ,<br>order, or warrant to the Court or other officer by<br>which or by whom the same has been issued |
|--|

or made, together with a certificate endorsed thereon and signed by such Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

**7.** Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

*Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent.*

**8.** Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

*Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.*

**9.** Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

*Order under Mutiny Act for intermediate custody.*

**10.** Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

*Committals by High Court in execution of a decree or for contempt.*

**11.** Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the said Superintendent, together with a warrant of the Court.

*Persons sentenced by Magistrate of Police to imprisonment, or imprisoned for non-payment of fine, to be delivered to Superintendent with a warrant.*

**12.** Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court,

*Persons committed by Justice or Magistrate or Coroner for trial by High Court to be delivered to Superintendent with warrant.*

together with the warrant of commitment, in order that he may be dealt with according to law.

**13.** Pending any such enquiry as is mentioned in section eight of Act No. XXIII of 1861 (*to amend Act XXXIII of 1861, VIII of 1859*), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

*Custody, pending enquiry under Act XXIII of 1861 (to amend Act XXXIII of 1861, VIII of 1859), which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section.*

and such Superintendent is hereby authorized and required to detain such defendant in safe custody until he is redelivered to the Officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

**14.** Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*),

*Persons arrested in pursuance of warrant of High Court, or Small Cause Court, to be delivered to Superintendent.*

or in pursuance of a warrant issued under section three of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction; and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

**15.** Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the confinement of State prisoners*), Regulation II of 1819 of the Madras Code (*for the confinement of State prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State prisoners, and for the attachment of the lands of Chieftains and others, for reasons of State*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better custody of State prisoners*), and Act No. III of 1858 (*to amend the law relating to the arrest and detention of State prisoners*).

*Warrants under Regulations for confinement of State prisoners may be directed to Superintendent.*



16. Section twenty-five of Act No. XLVIII of 1860, shall be construed in Bombay as if the words "Superintendent of prisons for the town of Bombay," were substituted for the words "Keeper or Governor of the Jail or House of Correction."

### PART III.—PRISONERS IN THE MOFUSSIL.

17. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence passed by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General of India in Council, or of any Local Government.

18. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

19. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

#### *Persons convicted in Native States.*

20. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences,—

thuggee, dacoity, belonging to any gang of thugs or dacoits,

murder, culpable homicide,

administering poison or any other thing with intent to cause hurt or commit, or to facilitate the commission of an offence,

rape, voluntarily causing grievous hurt,

child-stealing, selling females, robbery, house-breaking, cattle theft,

malicious and wilful burning of houses, forgery, counterfeiting coin, or uttering counterfeit coin,

criminal breach of trust, criminal misappropriation of property,

attempt to commit any of the above offences,

abetment within the meaning of the Indian Penal Code of suicide by burning or burying alive (*samādhi*), or of any of the other offences above specified,

and for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Provided always that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, is one of the presiding Judges.

21. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

### PART IV.—CONVICTS SENTENCED TO PENAL SERVITUDE.

22. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General of India in Council by general order, from time to time, directs;

and may, during such time, be kept to hard labour;

and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with:

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge, or part discharge, of the term of the sentence.

23. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

24. The Governor General in Council may grant to any convict hereafter to be sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such portion of his term of servitude, and upon such

conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

25. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of license to be allowed to go at large.

26. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

If license revoked, the convict may be apprehended.

27. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by a Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

Execution of warrant.

28. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the district in which the convict is apprehended.

Apprehended convict to be brought up for recommitment.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the recommitment of the convict to the prison from which he was released by virtue of the said license.

29. Such convict shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the period mentioned in the original sentence.

Recommitment.

30. If a license be granted under section twenty-five upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

Penalty for breach of condition of the license.

or goes beyond the limits specified in the license, or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

#### PART V.—REMOVAL OF CONVICTS.

31. When any person is, or has been, sentenced to imprisonment by a Court established by Royal Charter, the Local Government may order his removal during the period prescribed for his imprisonment, from the jail in which he is confined to any other jail within the territories subject to the same Local Government.

Power to remove prisoners sentenced by High Court from one jail to another in the territories under Local Government.

32. Whenever it appears to the Local Government that any person, imprisoned by the sentence of a Court established by Royal Charter, is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such prisoner is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then, until he is discharged, according to law.

Lunatic prisoners sentenced by High Court may be removed to asylum.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand him to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

Remand on recovery.

Discharge.

The provisions of section nine of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

Act XXXVI of 1858, section 9, applied to prisoners in lunatic asylum.

33. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

Governor General in Council may order removal of prisoners from one prison to another.

#### PART VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

34. As soon as any offender is delivered to the person appointed by the Governor General in Council in this behalf at the place to which such offender is transported, the property in his service shall, during the term of transportation, vest in the person so appointed.

Right to service of convicts.



35. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered, and in whom the property in their service shall vest as aforesaid.

36. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;

their confinement, treatment, and discipline;  
their punishment for misbehaviour, disorderly conduct, neglect, or disobedience.

#### PART VII.—DISCHARGE OF CONVICTS.

37. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

### SCHEDULE.

(See Section 2.)

Number and Year.	Subject or Title.	Extent of Repeal.
Act VII of 1837 ...	Charter Courts' power to discharge convicts recommended for pardon.	The whole.
Act XVI of 1840 ...	An Act concerning the management of convicts transported to places within the territories of the East India Company.	The whole.
Act XXIV of 1855 ...	An Act to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Sections five, six, seven, nine, ten, eleven, twelve.
Act XVII of 1860 ...	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
Act VIII of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners.	The whole.
Act VIII of 1865 ...	An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.	The whole.
Act II of 1867 ...	An Act to make further provision for the removal of prisoners.	The whole.
Act XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.	The whole.
Act XXVI of 1869 ...	An Act to correct a clerical error in Act VIII of 1863.	The whole.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate the nine Acts which contain the law relating to prisoners confined by the order of a Court. The Bill preserves intact the substance of the existing law; but some improvements have been made in its arrangement and wording.

SIMLA; } F. R. COCKERELL.  
The 20th September 1870. }

WHITLEY STOKES,  
Secretary to the Govt. of India.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870.

No. 23 of 1870.

*A Bill to consolidate the law relating to Trespasses by Cattle.*

Whereas it is expedient to consolidate the law relating to trespasses by cattle; It is hereby enacted as follows:—

Preamble.

*Preliminary.*

Short title. 1. This Act may be called 'The Cattle-trespass Act, 1870.'

It extends to the whole of British India, except such districts or tracts of country as the Local Government, with the sanction of the Governor General in Council, may exclude from its operation.

Local extent.

Commencement. And it shall come into force on the passing thereof.

2. The Acts mentioned in the Schedule hereto annexed shall be repealed to the extent specified in the third column of the said Schedule.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

*Impounding Cattle.*

3. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and take them without unnecessary delay to the pound established for the village in which the land is situate.

All Officers of Police shall, when required, give their aid to persons making such seizures.

Police to aid seizures.

4. Pounds shall be established at the district police stations, and at such other places as the Magistrate of the District, under the orders of the Local Government, may determine.

The village by which every pound is to be used shall be determined and notified by the Magistrate of the District.

5. The pounds shall be under the controul of the Magistrate of the District, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the Local Government from time to time directs:

Provided that, in the Presidency of Fort St. George, the village Inspectors, and, in the Presidency of Bombay, the heads of villages and police pátíls, shall be *ex-officio* the keepers of village pounds.

6. When cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner, if known, and shall give the seizer a copy of the entry.

Seizures to be registered.

Pound-keeper to take charge of and feed cattle.

The pound-keeper shall take charge of and feed the cattle until disposed of as hereinafter directed.

*Fines.*

7. For every head of cattle impounded as aforesaid, a fine shall be levied according to the following scale:

	Annas.
Camel or buffalo ... ..	eight.
Horse or pony, bull, bullock, or cow ...	four.
Calf or ass ... ..	two.
Sheep or goat ... ..	one.

No cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

*Delivery or Sale of Cattle.*

8. If the owner appear and claim the cattle, they shall be delivered to him on payment of the prescribed fine, together with the expenses of feeding the cattle at such rates as may from time to time be fixed by the Magistrate of the District.

The owner, on taking back his cattle, shall sign a receipt for them in the register kept by the pound-keeper.

A list of the fines and of the rates of charge for feeding cattle shall be stuck up in a conspicuous place on or near to every pound.

9. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to such officer of Police as the Local Government appoints in this behalf.

Procedure if cattle be not claimed within a specified time.



Such officer shall thereupon stick up in a conspicuous part of the Police Office a notice stating—

- (a) the number and description of the cattle,
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village, and at the marketplace nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said Officer of Police, or an officer of his establishment deputed for the purpose.

**10. If the owner appear and refuse or omit**

Procedure if owner appear and refuse or omit to pay the fines and expenses. to pay the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by the said Officer of Police.

The remaining cattle, and the balance of the purchase-money, if any, shall be delivered to the owner, together with an account showing—

- (a) the number of cattle seized,
- (b) the time during which they have been impounded,
- (c) the charge for fines and expenses,
- (d) the number of cattle sold,
- (e) the proceeds of sale,
- (f) the manner in which those proceeds have been disposed of.

The owner shall grant a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account:

Provido. Provided that, if a complaint against the seizure has been preferred under the provisions of section fourteen, no sale shall be made until the case has been decided, nor otherwise than according to the order passed in such case.

**11. No Police Officer or pound-keeper shall, directly or indirectly, purchase any cattle at a sale under this Act.**

Police Officers and pound-keepers not to purchase cattle at a sale under this Act.

**12. When cattle are sold under this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.**

Disposal of sale-proceeds, fines, and expenses.

The Officer of Police by whom the sale was made shall send to the Magistrate of the District the fines so deducted, as well as all fines received by the pound-keepers under section eight.

The expenses of feeding so deducted shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under section eight.

The surplus proceeds of the sale of unclaimed cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months and, if no claim thereto be preferred

and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

**13. Out of the sums received on account of**

Application of fines and unclaimed proceeds of sales. fines and the unclaimed proceeds of the sale of unclaimed cattle shall be paid—

(a) the salaries allowed to pound-keepers under the orders of the Local Government,

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and other works of a like nature.

*Complaints of Illegal Seizures.*

**14. Any person whose cattle have been seized**

Owner may prefer complaint to Magistrate within ten days from date of seizure of his cattle. and detained as doing damage to land or any crop or produce thereon may prefer a complaint at any time within ten days from the date of the seizure to any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon unstamped paper; and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances.

If the Magistrate on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make a summary enquiry into the case.

If the seizure be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure and detention reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure, together with all expenses incurred by the complainant in procuring the release of the cattle; and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure.

**Munsifs and other judicial officers having**

Munsifs and others may be invested with power to adjudicate under this section. original jurisdiction, and not invested with criminal powers, may be specially invested by the Local Government with the power of receiving and trying complaints under this section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate of the District.

All compensation awarded under this section shall be recoverable as if it were a fine imposed by the Magistrate awarding it.

*Cattle damaging Roads, Canals, Embankments.*

15. Persons in charge of public roads, canals, embankments, and the like, may seize, or cause to be seized, any cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall apply to such seizures.

*Stray Cattle.*

16. Village and other Police Officers shall take to the pounds established under section four all cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of cattle seized as trespassing and doing damage, shall apply to all cattle so taken.

*Penalties.*

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

17. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

or forcibly rescues the same after seizure either from a pound, or from the seizer when conveying or about to convey them to a pound,

shall, on conviction before a Magistrate, be punishable with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

18. When any person commits mischief by causing cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorised to seize cattle under section three.

Any fine so adjudged may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

19. Any owner or keeper of pigs, who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

All fines recovered under this and the last preceding section may be appropriated in whole or in part as compensation for loss proved to the satisfaction of the Magistrate.

*Suits for Compensation.*

20. Nothing herein contained prohibits any person, whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court:

Provided that any compensation paid to him under this Act by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as compensation in such suit.

## SCHEDULE.

Number and Year.	Title of Act.	Extent of Repeal.
III of 1857 ..	An Act relating to trespasses by cattle.	So much as has not been repealed.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).	The whole.
XXII of 1861	An Act to amend Act III of 1857 (relating to trespasses by cattle).	So much as has not been repealed.

## STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to consolidate the law relating to cattle-trespass, which is now scattered through three Acts,—III of 1857, V of 1860, and XXII of 1861. The opportunity has been taken to improve the arrangement and the wording of the law; to provide that damages awarded for illegal seizures may be recovered as if they were fines; and (with reference to the case of *Reg. v. Lingad bin Giubad*, 4 Bom. High Court Rep. C. C. 14) to declare expressly that a person who, through neglect, permits a public road to be damaged by allowing his pigs to trespass thereon, is liable to be fined. The cases of *Reg. v. Mir Saheb Cassamia*, 1 Bom. High Court Rep. 100; *Reg. v. Mathur Purshotam*, 4 ib. C. C. 13; and *Reg. v. Gangá Kom Mhasu*, 5 ib. C. C. 13, have also been carefully considered.

SIMLA; } F. R. COCKERELL.  
The 20th September 1870.

WHITLEY STOKES,  
Secretary to the Govt. of India.

The following preliminary Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 3rd October 1870:—

No. 20 of 1870.

## THE CORONERS' BILL, 1870.

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*A Bill to consolidate the laws relating to Coroners.*

Whereas it is expedient to consolidate the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows :—

*I.—Preliminary.*

Short title. 1. This Act may be called "The Coroners' Act, 1870."

Local extent. It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay.

Commencement. And it shall come into force on the passing thereof.

Repeal of enactments. 2. The enactments mentioned in the first Schedule hereto annexed are repealed.

*II.—Appointment of Coroners.*

3. Within the local limits of the ordinary original civil jurisdiction of Coroners of Calcutta, Madras and Bombay, each of the said High Courts there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

4. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Every person now holding such office shall be deemed to have been appointed under this Act.

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

6. Any Coroner may hold simultaneously any other office under Government.

7. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

*III.—Duties and Powers of Coroners.*

8. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed, the Coroner shall inquire into the cause of death.

Every such inquiry shall be deemed a judicial proceeding within the meaning of section one hundred and ninety-three of the Indian Penal Code.

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

11. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

12. On receiving notice of any death mentioned in section eight the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen persons qualified and liable to serve as jurors under Act No. XIII of 1865 to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Any inquest under this Act may be held on a Sunday.

13. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

14. When a full jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

15. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

16. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

17. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, and the Coroner shall enquire of such circumstances and the cause of the death, and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

18. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest, and every such witness shall be entitled to such reasonable remuneration as the Coroner thinks fit.

19. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

20. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read over such parts to the witness and then procure his signature thereto;

any witness refusing so to sign shall be deemed to have committed an offence under section one hundred and eighty of the Indian Penal Code;

every such deposition shall be subscribed by the Coroner.

21. The Coroner may adjourn the inquest from time to time, and from place to place.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded in.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

23. When the verdict is delivered, the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

- (1) where, when, and before whom the inquisition is holden,
- (2) who the deceased is,



- (3) where his body lies,  
 (4) the names of the jurors and that they present the inquisition upon oath,  
 (5) where, when, and by what means the deceased came by his death; and  
 (6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition may be in the form set forth in the second Schedule to this Act, with such variation as the circumstances of each case require.

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or to culpable homicide not amounting to murder, or by killing by a rash or negligent act, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or killing to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

The Coroner shall certify and subscribe such recognizances, and deliver the same, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be, before or at the opening of the Court.

The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison, or if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

26. No inquisition found upon or by any inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

27. It shall no longer be the duty of any Coroner to enquire of treasure trove or wrecks, or to execute process, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

#### IV.—Coroners' Juries.

28. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit.

The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

29. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

30. Unless in case of necessity, no person who has appeared as a juror on an inquest, or has been summoned to appear, and has not made default, shall, within one year after such appearance or the service of such summons, be summoned to appear as a juror under this Act.

31. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

#### V.—Rights and Liabilities of Coroners.

32. Every Coroner shall be entitled to such salary for the performance of the duty of his office, as is prescribed in that behalf by the Governor General in Council.

33. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

34. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

35. No Coroner or Deputy Coroner shall be liable to serve as a juror.

36. Coroners and Deputy Coroners are privileged from arrest while engaged in the discharge of their official duty.

37. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

38. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of six months from such fact or failure, nor after tender of sufficient amends.

## FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
33 Geo. III, cap. fifty-two...	An Act for continuing in the East India Company, for a further term, the possessions of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section one hundred and fifty-seven.
9 Geo. IV, cap. seventy-four	An Act for improving the administration of criminal justice in the East Indies.	Sections five and six and (so far as it relates to Coroners) section fifty-one.
Act No. IV of 1848 ...	An Act for regulating Coroners' juries ...	The whole.
Act No. XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.	The whole.

## SECOND SCHEDULE.

*Form of Inquisition.*

An inquisition taken at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_, before E F, Coroner of \_\_\_\_\_ on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to inquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [or by a majority of \_\_\_\_\_] that the death of the said A B was caused, on or about the \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_, by [here state the cause of death as in the following examples—

1. *Cases of homicide*—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [or accidental] homicide.  
— a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [or culpable homicide amounting to murder, or killing by a rash or negligent act.]
2. *Cases of accident*—falling out of a boat into the river Hughli, whereby he was drowned.  
— a kick from a horse which fractured his skull and ruptured blood vessels in his head.
3. *Cases of suicide*—shooting himself through the head with a pistol.  
— arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*—disease of the heart.  
— apoplexy.  
— sunstroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of \_\_\_\_\_;  
G H, I J, K L, M N, O P (jurors).



## REPORT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to which the Bill to consolidate the laws relating to Coroners has been referred, have the honour to present this preliminary report.

The Bill, as introduced, was intended merely to consolidate the existing law contained in two Statutes and three Acts, and it provided, in the words of 33 Geo. III., cap. 52, sec. 157, that the Coroners should exercise the like jurisdictions as by law might be exercised by Coroners elected for counties in England. We have struck out this provision, which would have necessitated constant reference to English statutes and text-books, and we have in lieu thereof codified such part of the English law of Coroners as seemed adapted to the Presidency towns.

The amended Bill accordingly declares the Coroner's jurisdiction to enquire into deaths by accident, homicide or suicide, sudden deaths by means unknown, and deaths of prisoners in prison. It enables him to order a body to be disinterred. It provides for summoning juries, swearing the jurors, viewing the body, summoning witnesses, and *post-mortem* examinations.

It declares that the evidence shall be taken on oath, that witnesses unacquainted with English shall be examined through an interpreter, that questions suggested by the jury shall be put, and that the Coroner shall take down the material parts of the evidence. Power is given to adjourn the inquest. When the witnesses have been examined, the Coroner will sum up, and the jury will consider of their verdict. When the verdict is delivered, the Coroner will draw up an inquisition setting forth the matters specified in section 24, and in the form given in the second Schedule.

When the verdict amounts to murder, culpable homicide, or killing by a rash or negligent act (the last mentioned offence is about to be added to the Penal Code), the Coroner will bind by recognizance any person acquainted with the facts to appear at the next Sessions, and prosecute or give evidence. The Coroner will also certify the recognizances and deliver them with the inquisition and evidence to the Court in which the trial is to be. He may also issue his warrant for the apprehension of the accused.

The amended Bill (section 27) expressly abolishes the Coroner's jurisdiction as to treasure trove and wrecks, and declares that he shall not be liable to execute process.

The Coroner of Calcutta will, under the amended Bill, be appointed by the Lieutenant-Governor of Bengal, and not by the Governor General in Council.

As to Coroners' juries, we have provided (section 31) that when an inquest is held on the body of a prisoner, no officer of the prison and no prisoner confined therein shall be a juror. There is a similar provision in the Schedule to the English Prisoners' Act (28 & 29 Vic. c. 126), clause 48.

As to a Coroner's rights, we have added three clauses (33, 35, 36), one providing for repaying his disbursements for fees to medical witnesses, hire of

rooms for the jury, and the like; another exempting him from serving on juries, and a third privileging him from arrest while engaged in the discharge of his official duty.

We have omitted the clause corresponding with Act XII of 1867, section 12, as this will more fitly be placed in the Prisoners' Bill now before the Council.

We have omitted, as unnecessary, the elaborate specification of the informalities in case of which the inquisition may be amended by a Judge of the High Court. For variances between the statements in the inquisition and the evidence, Act XVIII of 1862 (sections 1 and 57) appears to provide sufficiently.

We recommend that the Bill thus amended should, before being passed, be published with this report in the *Gazette of India*, that it be sent to the Governments of Madras, Bombay and Bengal, and that the opinions of these Governments, of the High Courts at the Presidency towns of the Advocates General and of the Coroners be obtained on its provisions.

J. F. STEPHEN.

F. R. COCKERELL.

SIMLA;

The 17th September 1870.

WHITLEY STOKES,

Secretary to the Govt. of India.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 19th of the Rules for the Conduct of Business at Meetings of the Council of the Governor General of India for the purpose of making Laws and Regulations:—

No. 24 OF 1870.

# THE INDIAN REGISTRATION BILL, 1870.

## ARRANGEMENT OF SECTIONS.

### PART I.

#### *Preliminary.*

#### Sections.

1. Short title.
- Local extent.
- Commencement.
2. Interpretation clause.
3. Enactments repealed.

### PART II.

#### *Of the Registration Establishment.*

4. General Registry Office.
- Branch General Registry Office.
5. Districts and Sub-Districts.
6. Registry and Sub-Registry Offices.
7. Registrars and Sub-Registrars.
8. Military Cantonments may be declared Sub-Districts.

## Sections.

9. Deputy Registrar General.
10. Absence of a Registrar from his District or vacancy in his office.
11. Absence of Registrar from office on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under sections 9, 10, 11, or 12 to be reported to Local Government. Suspension, removal and dismissal of Registering Officers.
14. Remuneration and establishments of Registering Officers.
15. Seals of Registering Officers.
16. Register Books—Forms—Fire-proof boxes.

## PART III.

*Of registrable Documents.*

17. Documents of which registration is compulsory.  
Exception of composition-deeds.  
And of transfers of shares and debentures in Land Companies.
18. Documents of which registration is optional.
19. Documents in language not understood by Registering Officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.  
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and lands.

## PART IV.

*Of the Time of Registration.*

23. Time for registering instrument of which registration is compulsory.
24. Time for registering documents of which registration is optional.
25. Provision where delay in registering is unavoidable.
26. Provision for last day of period for registration falling on a holiday.
27. Wills and authorities to adopt may be registered or deposited at any time.
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29. Place for registering documents relating to immoveables.
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31. Registration by Registrar General of documents referred to in section twenty-nine.
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## PART VI.

*Of the Presentation of Instruments for Registration.*

34. Persons to present documents for registration.

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35. Powers of attorney recognizable for purposes of section thirty-four.  
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36. Enquiry before registration by the Registering Officer.

## PART VII.

*Of the enforcement of the attendance of Executants and Witnesses.*

37. Procedure where attendance of executant or witness is desired.
38. Revenue Officer to issue and cause service of summons.
39. Persons exempt from attendance at Registry Office.
40. Law as to summonses, commissions and witnesses under this Act.

## PART VIII.

*Of registering memoranda of decrees and orders affecting immoveable property.*

41. Memorandum of decree affecting registered document relating to immoveable property.
42. Memorandum of decree affecting immoveable property.
43. Decrees in favour of several parties. Decrees mentioned in section 41 or section 42 to be of no force until memoranda registered.

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44. Persons entitled to present for registration Wills and Authorities to adopt.  
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53. Enforcement of such agreement. Decree.



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54. Power to order bond, bill or note to be deposited in Court.
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## PART XI.

*Of the duties and powers of Registering Officers.**(A.) As to the Register Books and Indexes.*

56. Register books to be kept in the several Offices.
57. Documents to be copied according to order of presentation.
58. Entries to be numbered consecutively.
59. Current Indexes and entries therein.
60. Indexes to be made by registering officers. Extra particulars in Indexes.
61. Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.
62. One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.
63. Copies sent by Registrar to be filed in Indexes of General Registry Office.
64. Annual alphabetical Index to entries in Indexes.
65. Registering Officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

*(B.) As to the procedure on admitting to registration.*

66. Particulars to be endorsed on documents admitted to registration.
67. Such endorsements to be dated and signed by Registering Officer.
68. Certificate showing that document has been registered, and number and page of book in which it has been copied.
69. Endorsements and certificate to be copied. Document to be returned.
70. Procedure on presentation of document in language unknown to Registering Officer.
71. Power to administer oaths. Record of substance of statements.

*(C.) Special Duties of Sub-Registrar.*

72. Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.
73. Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.
74. Registration of Wills and Authorities to adopt.
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Saving of Act X of 1865, section two hundred and fifty-nine.

*(D.) Special Duties of Registrar.*

76. Procedure on registering instruments under section thirty-two.
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*(E.) Of the Registrar General.*

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78. Procedure on registration in General Registry Office.

*(F.) Of the Controlling Powers of Registrars and Registrars General.*

79. Registrar to superintend and control Sub-Registrars.
80. Powers of Registrar General. Power to frame rules.
81. No order to cancel registration.

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*Of refusal to Register.*

82. Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.
83. Registrar may alter or revise orders of Sub-Registrar refusing registration.
84. Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under section seventeen or section eighteen, clauses 1, 2, 3 and 4.
85. Petition to District Court.  
To be verified.  
Document admissible in evidence.
86. Court to fix day for hearing petition and copy thereof to be served.
87. Court may order document to be registered. Provision for case in which Judge is Registering Officer.  
Bar of appeal from order.

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*Of the Fees for Registration, Searches and Copies.*

88. Fees for registration, searches and copies to be fixed by Local Government.  
Table of Fees.
89. Fees and penalties to be credited to Government.

## PART XIV.

*Penalties.*

90. For incorrectly copying, endorsing, translating or registering documents with intent to injure.
91. For making false statements before Registering Officer.
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94. For abetment of offences under this Act.
95. Registering Officer may institute prosecutions.
96. Registering Officers to be deemed Public Servants.

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*Miscellaneous.*

97. Registering Officer not to be liable for anything *bona fide* done or refused in his official capacity.
98. Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.
99. Registration of instruments executed by Government Officers or certain public functionaries.

## Sections.

100. Time for registering instruments executed in British Burma or Coorg before 1st January 1871.

*Exemptions from Act.*

101. Exemption of certain documents executed by or in favour of Government.  
 102. Inspection and copies of such documents.  
 103. Copies of sanads to be filed by Registrar.  
 104. Exemption of Madras inám title-deeds.

FIRST SCHEDULE. Forms of Memoranda of decrees.

SECOND SCHEDULE. Form of Petition under section eighty-four.

## Form of Verification.

*A Bill for the Registration of Assurances.*

Whereas it is expedient to consolidate and amend the laws relating to the registration of assurances and other instruments; It is hereby enacted as follows:—

## PART I.

*Preliminary.*

Short title. 1. This Act may be called "The Indian Registration Act, 1870."

It extends to the whole of British India except the territories administered by the Chief Commissioner of Oudh;

And it shall come into force on the first day of January 1871.

2. In this Act, unless there be something repugnant in the subject or context,

"Assurance" includes any instrument not testamentary purporting to deal with any interest in, or charge upon, immoveable property:

"Lease" includes a counterpart, a kabúliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a pattá or muchalká, as respectively defined in section three of Act No. VIII of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency:

"Bond" denotes any instrument by which one person (the obligor) binds himself absolutely or conditionally to pay money to another person (the obligee):

"Bill of exchange." "Bill of Exchange" includes a hundí:

"Signature." "Signed." "Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable Property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass:

"Moveable Property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Representative" includes the guardian of an infant and the Committee or other legal curator of a lunatic or idiot:

"Addition" means the place of residence, and the profession, trade, rank, title or caste (if any) of a person described, and, in the case of a Native, his father's name:

"District Court" includes the High Court in its ordinary original civil jurisdiction: "Civil Court" does not include a Court for the relief of insolvent debtors:

"General Registry Office." "General Registry Office" includes a Branch General Registry Office:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

3. Act No. XXII of 1864, sections ten and forty-five, Act No. XX of 1866, and Act No. XXVII of 1868 are hereby repealed.

All appointments, rules and orders made, and all offices established, under any of the said Acts shall be deemed to have been made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of January 1871, to any enactment hereby repealed, shall be read as if made to this Act.

## PART II.

*Of the Registration Establishment.*

4. The Local Government shall establish within the territories under such Government, at such place as it thinks fit, an office to be called the General Registry Office, and shall appoint an officer to the charge of such office, who shall be the Registrar General of the territories for which he is appointed.

The Local Government may also, with the previous sanction of the Governor General of India in Council, establish a Branch General Registry Office, and appoint a Branch Registrar General; and every act done by or before any branch Registrar General so appointed, shall have the same effect as if done by or before a Registrar General:



provided that such branch Registrar General shall not exercise the power to frame rules hereinafter conferred on the Registrar General.

Any Registrar General or branch Registrar General may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Districts and Sub-Districts shall form Districts and Sub-Districts, and shall prescribe and from time to time may alter the limits of such Districts and Sub-Districts.

A Sub-District may be coterminous with a District, or may be situate partly in one District and partly in another.

The Districts and Sub-Districts formed under this section, together with the limits thereof and every alteration of such limits, shall be notified by the Local Government in the official *Gazette* immediately after every such formation or alteration.

Every such alteration shall take effect on such day after the date of the notification as shall be mentioned therein.

6. The Local Government shall establish in every District an office to be styled the Registry Office, and in every Sub-District an office to be styled the Sub-Registry Office.

7. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

8. The Local Government may declare any Military Cantonment to be a Sub-District for the purposes of this Act.

The Cantonment Magistrate of any Cantonment so declared to be a Sub-District shall be the Sub-Registrar thereof.

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District for the purposes of this Act, he shall also declare what authorities shall be deemed to be Registrar of the District and Registrar General, respectively, with reference to such Cantonment and the Sub-Registrar thereof.

9. During the absence on duty of the Registrar General, or branch Registrar General, from the place where the General Registry Office is established, he may appoint the Registrar of such place, or, with the previous sanction of the Local Government, such other person as he thinks fit, to perform the duties of the Registrar General, except those mentioned in sections eighty and eighty-three.

A Registrar so appointed shall perform such duties in addition to his own duties as Registrar.

During such absence, the Registrar or other person so appointed as aforesaid, shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may

use the seal of the Registrar General or Branch Registrar General, as the case may be.

10. In case of the absence from his District, or of a vacancy occurring in the office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General appoints in this behalf, or, in default of such appointment, the Judge of the District Court, or, when there are more District Courts than one, the Judge of such of the said Courts as the Local Government appoints, shall, during such absence or vacancy, be the Registrar.

In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the office of any such Registrar, the Registrar General may appoint any person whom he thinks proper to conduct the duties of such office.

11. In case of the absence of any Registrar from his office on duty in his District, he may appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections seventy-nine and eighty-three.

12. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the office of any Sub-Registrar, any person whom the Registrar of the District appoints in this behalf shall, during such absence or vacancy, be Sub-Registrar.

13. All appointments made under section nine, ten, eleven or twelve, shall be reported to the Local Government by the Registrar General or branch Registrar General, as the case may be.

Such report shall be either special or general, as the Local Government directs; and the Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. The Local Government may, with the previous sanction of the Governor General of India in Council, assign such salaries as such Government from time to time deems proper, to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees, and partly by salaries.

The Local Government may also, with the like sanction, allow such establishments for the several Registration Offices as are necessary for the purposes of this Act.

15. The Registrar General, branch Registrar General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of

the Registrar General (or of the branch Registrar General, or of the Registrar, or of the Sub-Registrar) of

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Registrar General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box.

### PART III.

#### *Of Registrable Documents.*

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, the said Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or shall come into force (that is to say).—

(1) Instruments of gift of immoveable property:

(2) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest, or charge, whether vested or contingent, of the value of one hundred rupees and upwards, to, in or on immoveable property:

(3) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(4) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

The former part of this section does not apply to any composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any debenture issued by any such Company:

And, so far only as regards the territories respectively under the government of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Local Government may, by order published in the official *Gazette*, exempt from the operation of the former part of this section any leases of immoveable property, executed in any particular District, or part of a District, the terms granted by which do not exceed two years and the annual rents reserved by which do not exceed fifty rupees.

(5) Authorities to adopt a son executed after this Act comes into force shall also be registered.

18. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1) Assurances (other than an instrument of gift) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, interest or charge, whether vested or contingent, of a value less than one hundred rupees to, in or on immoveable property:

(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title, interest or charge:

(3) Leases of immoveable property for any term not exceeding one year, and the pattás and muchalkás referred to in section two:

(4) Awards relating to immoveable property:

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, interest or charge to, in or on moveable property:

(6) Wills not purporting to confer an authority to adopt a son:

(7) Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

20. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration; and the officer registering such document, at the time of registering the same, shall make a note in the register of such interlineation, blank, erasure or alteration.

21. (a.) No document not testamentary relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b.) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by



their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c.) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Sub-Districts, by such number of true copies of the map or plan as are equal to the number of such Sub-Districts, and, in case the property is also situate in several Districts, by such further number of true copies of the map or plan as is equal to the number of such Districts.

22. Failure to comply with the provisions contained in clause (b) of section twenty-one shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.

##### *Of the Time of Presentation.*

23. Subject to the provision contained in section twenty-five, no document of the kinds mentioned in section seventeen, clauses 1, 2, 3 and 4, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

24. Subject to the provision contained in section twenty-five, no document of any of the kinds mentioned in section eighteen (other than a will), shall be accepted for registration, unless presented for that purpose to the proper officer within two months from the date of its execution:

Provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

*Explanation.*—The date of execution of a document means the day on which it purports to have been executed.

25. If owing to urgent necessity or unavoidable accident, any document is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Whenever the last day of any period hereinbefore provided for the presentation of any document falls on a Sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

27. A will or an authority to adopt a son may at any time be presented for registration or deposited in manner hereinafter provided.

28. Nothing in this Act shall alter the time within which any certificate or other document must be registered under the provisions of any Act of the Parliament of the United Kingdom of Great Britain and Ireland.

#### PART V.

##### *Of the Place of Registration.*

29. Save as in this Part otherwise provided, every document mentioned in section seventeen, clauses 1, 2, 3 and 4, and section eighteen, clauses 1, 2, 3 and 4, shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

30. Every document other than a document referred to in section twenty-nine, may be presented for registration in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

31. The Registrar General may in his discretion receive and register any document referred to in section twenty-nine, without regard to the situation in any part of British India of the property to which the document relates.

32. Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

The Registrar of a District shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

33. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public office of the officer whose duty it shall be to register the same; but any such officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring

to deposit a will or authority to adopt a son, and register or accept for registration or deposit such document, will or authority.

Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

#### PART VI.

##### *Of the Presentation of Instruments for Registration.*

**34.** Subject to the provisions of section thirty-three, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office,

by some person executing or claiming under the same,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

**35.** For the purposes of section thirty-four, the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power of attorney resides in any part of British India other than Oude, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides :

(b) if the principal at the time aforesaid resides in Oude, a power of attorney executed before and authenticated by the Deputy Commissioner within the local limits of whose jurisdiction the principal resides :

(c) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or court hereinbefore mentioned in that behalf :

Provided that the following persons shall not be required to attend at the office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing any such power of attorney as is mentioned in clauses (a) and (b) of this section :—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

persons who are in jail under civil or criminal process ; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that

the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

**36.** Subject to the provisions contained in this section and in sections seventy-six, eighty, eighty-four and eighty-nine, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution ;

or, if the person executing the document is dead, and his representative, assign or agent does not appear before the registering officer, but such officer is nevertheless satisfied of the fact of execution,

the registering officer shall register the document as directed in section sixty-eight.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one, whether summoned or not under section thirty-seven, present in his office.

If all or any of the persons by whom the document purports to be executed deny its execution, or if any such person appears to be a minor, an idiot, or a lunatic, the registering officer shall refuse to register the document.

#### PART VII.

##### *Of the enforcement of attendance of executants and witnesses.*

**37.** If any person presenting any document for registration desires the attendance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such revenue or civil court as the Local Government directs in this behalf to issue and serve a summons requiring him to attend at the registry office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named therein.



38. The Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose attendance is so required.

Revenue officer to issue and cause service of summons.

39. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to attend at the registry office,

Persons exempt from attendance at registry office.

a person in jail under civil or criminal process, and persons exempt by law from personal appearance in court, and who would but for the provision next hereinafter contained be required to attend in person at the registry office, shall not be required so to attend.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

40. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before civil courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission, issued, and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses in this Act.

#### PART VIII.

*Of registering memoranda of decrees and orders affecting immoveable property.*

41. When any civil or revenue court by a decree or order declares any document relating to immoveable property, which has been registered under this Act or any Act hereby repealed, to be invalid,

Memorandum of decree affecting registered document relating to immoveable property.

or when any civil or revenue court passes a decree or order affecting any such document, and such last-mentioned decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge of the value of one hundred rupees and upwards under such document to, in or on the immoveable property to which it relates,

the Court, on the application of the party in whose favour the decree or order is made, shall cause a memorandum thereof to be prepared, and the Judge or presiding officer shall sign such memorandum and deliver it to the said party,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar within whose District the document was originally registered.

Every such memorandum shall be in the form set forth in the first part of the first schedule hereto annexed.

42. When any civil or revenue court by a decree or order creates, declares, transfers, limits or extinguishes any right, title, interest or charge, of the value of one hundred

Memorandum of decree affecting immoveable property.

rupees or upwards, of any person to, in or on any immoveable property situate in any part of British India except Oudh,

the presiding officer of the Court, on the application of the party in whose favour the decree or order is made, shall prepare and sign and deliver to him a memorandum thereof,

and the said party shall, within four months from the date of the decree or order, present or send such memorandum, together with the fee payable for registering the same, to the Registrar, or to every Registrar, within whose District the whole or any part of such immoveable property is situate.

Every such memorandum shall, so far as may be practicable, describe the property in manner required by section twenty-one, and shall be in the form set forth in the second part of the first Schedule hereto annexed.

43. When any decree or order mentioned in section forty-one or section forty-two is made in favour of more parties than one, the said application may be made by any one of such parties, and the Court shall deliver the memorandum to him.

Decrees in favour of several parties.

No decree or order mentioned in section forty-one or section forty-two shall be of any force, unless and until a memorandum thereof has been registered in manner provided by this Act.

Decrees mentioned in section 41 or section 42, not to be of any force until memoranda registered.

#### PART IX.

*Of the Presentation and Deposit of Wills and Authorities to adopt.*

44. The testator or any person claiming as executor or otherwise under a will, may present to any Sub-Registrar for registration such will,

Persons entitled to present for registration wills and authorities to adopt.

and the donor or donee of any authority to adopt, or the adoptive son, may present to any Sub-Registrar for registration such authority.

Any person entitled to present for registration any such will or authority may, either personally or by a duly authorized agent, present to a Sub-Registrar such will or authority open, and any testator or donor of such authority may either personally or by duly authorized agent deposit with any Sub-Registrar the will or authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

45. If the depositor of any such sealed cover wishes to withdraw the same, he may apply to the Registrar to whom such cover shall have been sent under section seventy-four that the cover be delivered to him; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 44.

46. If on the death of the depositor of a sealed cover under section forty-four, application be made to the Registrar to whom such cover shall have been so sent to open the same, the

Proceedings on death of depositor.

Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy at the applicant's expense the contents thereof in his Book No. 4.

When such copy has been made, the Registrar shall re-deposit the original will or authority.

#### PART X.

##### *Of the effects of Registration and Non-Registration.*

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All documents, not testamentary, duly registered under this Act and relating to any immoveable property, shall take effect against any oral agreement or declaration relating to such property, whether possession thereof has or has not been delivered.

49. All documents, not testamentary, duly registered under this Act, and relating to any moveable property, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

50. No instrument required by section seventeen to be registered, and no part of any such instrument, shall be received in evidence for any purpose whatever in any civil proceeding in any court,

or shall be acted on by any public servant as defined in the Indian Penal Code,

or shall affect any property comprised therein,

unless the instrument has been registered in accordance with the provisions of this Act.

*Illustration 1.*—A executes a bond for one thousand rupees and, by the same document, mortgages certain land worth more than one hundred rupees by way of collateral security for the re-payment of the one thousand rupees. The document is not receivable in evidence for the purpose of enforcing against A personally the re-payment of the money secured thereby.

*Illustration 2.*—A executes a conveyance of land worth more than one hundred rupees. The conveyance recites the receipt of the purchase-money. The recital cannot be received in evidence except in a criminal proceeding.

51. Every instrument of the kinds mentioned in clauses 1, 2 and 3 of section

eighteen, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered instrument executed after this Act comes into force and relating to the same property, whether such other

instrument be of the same nature as the registered instrument or not.

##### *Special Registration of Bonds, Bills of Exchange, and Promissory Notes.*

52. Whenever the obligor and obligee of a bond,

or the drawer, acceptor, or an indorser and the payee or an indorsee of a bill of exchange,

or the maker or an indorser and the payee or an indorsee of a promissory note,

agree that, in the event of the obligation resulting from the bond, bill or note not being duly satisfied, the amount secured thereby may be recovered in a summary way, and, at the time of registering the bond, bill or note, apply to the registering officer to record the said agreement, the registering officer, after making such enquiries as he thinks proper, shall record such agreement at the foot of the endorsement and certificate required by sections sixty-six and sixty-eight,

and such record shall be signed by him and by the obligor, drawer, acceptor, maker or indorser, or by some person expressly authorised in this behalf by a power of attorney from such obligor, drawer, acceptor, maker or indorser,

and shall be copied into the Register Book No. 1 or No. 6, as the case may be,

and shall be *prima facie* evidence of the said agreement.

53. Within one year from the date on which the amount becomes payable,

or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable,

the said obligee, payee or indorsee may present a petition to any court which would have had jurisdiction to try a regular suit on such bond, bill or note for the amount secured thereby, or for the instalment sought to be recovered.

The petition may be amended by permission of the court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

On production in court of the bond, bill or note and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the court.

Such decree may be enforced forthwith against the obligor, drawer, acceptor, maker or indorser signing as aforesaid, under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

54. In any proceedings under this Part of this Act, the court may order the bond, bill, or note sought to be deposited upon to be forthwith deposited with an officer of the court, and may



further order that all proceedings be stayed until the petitioner has given security for costs thereof.

55. After decree, the court may under special circumstances set aside the decree, and if necessary stay or set aside execution; but there shall be no appeal against any decree or order made under section fifty-three, section fifty-four, or this section.

Court may, under special circumstances, set aside decree.

## PART XI.

### *Of the duties and powers of Registering Officers.*

#### *(A.) As to the Register Books and Indexes.*

56. The following Books shall be kept in the several offices hereinafter named (that is to say),—

Register Books to be kept in the several offices.

#### *In all Registry Offices—*

Book 1, "Register of instruments relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

#### *In the Offices of Sub-Registrars—*

Book 3, "Register of deposits of wills and authorities to adopt;" and

#### *In the Offices of Registrars and of Sub-Registrars—*

Book 4, "Register of wills and authorities to adopt;"

Book 5, "Register of Decrees and Orders;"

Book 6, "Miscellaneous Register."

In Book 1 shall be entered all documents registered under section seventeen and the first four clauses of section eighteen, and all other documents mentioned in section eighteen, clause 7, which relate to immoveable property.

In Book 5 shall be filed all memoranda of decrees and orders sent under section forty-two.

In Book 6 shall be entered all documents registered under clauses 5 and 7 of section eighteen, and not entered in Book 1 or in Book 5.

57. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section seventy, every document admitted to registration shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its presentation.

58. All entries in each book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Entries to be numbered consecutively.

59. In every office in which any of the books next hereinafter mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, in alphabetical order and immediately after the document to which it relates has been copied by or by order of the registering officer.

60. Two such indexes shall be made in all registry offices, and shall be named, respectively, Index No. I. and Index No. II.

Index No. I. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book No. 5.

Index No. II. shall contain such particulars mentioned in section twenty-one, relating to every such document, as the Registrar General from time to time directs in that behalf.

A third index to be called Index No. III. shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 6.

Indexes Nos. I., II. and III. shall also contain such other particulars, and shall be prepared in such form, as the Registrar General from time to time directs.

61. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar General from time to time directs, two copies of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I. and II.

62. Every Registrar receiving such two copies shall in every month file one of such copies in his Indexes Nos. I. and II., respectively; and, at such intervals as the Registrar General from time to time directs, shall send the other of such copies to the general registry office.

Every Registrar shall also send to the general registry office a copy of all the entries which he shall have made in his Indexes Nos. I. and II., respectively, during the last of such intervals.

63. On the receipt in the general registry office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I. and II., respectively, kept in such office.

64. If the Registrar General so directs, an alphabetical index shall be prepared in every registration office at the end of each year of all entries made during the past year in the current indexes in such office; and in every

Annual alphabetical index to entries in indexes.

Copies sent by Registrar to be filed in indexes of general registry office.

Copy of entries in Registrar's indexes.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's indexes, and the other to be sent to general registry office.

Two copies of entries in Indexes Nos. I. and II. to be sent by Sub-Registrar to Registrar.

Extra particulars in indexes.

office in which Book No. 2 is kept, an alphabetical index shall be prepared at the end of each year to the entries made in such book during the past year.

65. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2 and 5 and the indexes relating to such books shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section seventy, copies of entries in such books shall be given to all persons applying for such copies.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

Subject to the same provisions, copies of entries in Books Nos. 3, 4 and 6 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer.

Such copies shall be signed and sealed by the registering officer, and shall be *prima facie* evidence of the contents of the original documents.

(B.)—As to the procedure on admitting to registration.

66. On every document admitted to registration, there shall be endorsed from time to time the following particulars (that is to say),—

Particulars to be endorsed on documents admitted to registration.

(1) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document declines to endorse the same, the registering officer shall refuse to register it.

67. The registering officer shall affix the date and his signature to all endorsements mentioned in the last preceding section, relating to the same document and made in his presence on the same day.

Such endorsements to be dated and signed by registering officer.

68. After such of the provisions of sections thirty-six, sixty-six, and sixty-seven as apply to the case have been complied with, the registering officer shall endorse on the document a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

Such certificate shall be signed, sealed and dated by the registering officer and shall then be *prima facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section sixty-seven have occurred as therein mentioned.

69. The endorsements and certificate mentioned in sections sixty-seven and sixty-eight shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section twenty-one shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section fifty-seven.

70. When a document is presented for registration under section nineteen, the translation shall be transcribed in the register of instruments of the nature of the original, and, together with the copy referred to in section nineteen, shall be filed in the registry office.

Procedure on presentation of a document in a language unknown to the registering officer.

The endorsements and certificate respectively mentioned in sections sixty-seven and sixty-eight shall be made on the original, and for the purpose of making the other copies required by sections seventy-two, seventy-three, seventy-four, and seventy-eight, the translation shall be treated as if it were the original.

71. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Power to administer oaths.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Record of substance of statements.

Every such note so signed shall be admissible as *prima facie* evidence of the facts therein stated.

(C.)—Special duties of Sub-Registrar.

72. Every Sub-Registrar on registering a document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in section twenty-one, to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.